PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type.~~

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~*this style type*~~ reconciles conflicts between statutes enacted by the 2008 Regular Session of the General Assembly.

HOUSE ENROLLED ACT No. 1379

AN ACT to amend the Indiana Code concerning labor and safety and to make an appropriation.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 2-5-30 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]:

Chapter 30. Unemployment Insurance Oversight Committee

Sec. 1. As used in this chapter, "committee" refers to the unemployment insurance oversight committee established by section 3 of this chapter.

Sec. 2. As used in this chapter, "fund" refers to the unemployment insurance benefit fund established by IC 22-4-26-1.

Sec. 3. The unemployment insurance oversight committee is established.

Sec. 4. (a) The committee shall do all of the following:

(1) Oversee the implementation of unemployment insurance legislation enacted by the general assembly in 2009.

(2) Oversee the administration of the unemployment insurance system by the department of workforce development.

(3) Make recommendations to improve the following:

(A) The proper collection of employer contributions and reimbursements.

(B) The determination of eligibility for and the payment of benefits.

(4) Monitor the solvency of the fund.

(5) Make recommendations to improve the solvency of the fund.

(6) Make a report annually to the legislative council concerning the solvency of the fund. The report must be in an electronic format under IC 5-14-6.

(7) Study and make recommendations concerning approaches taken by other states to improve the solvency of unemployment insurance benefit trust funds, including the indexing of:

(A) unemployment benefits; and

(B) the taxable wage base.

(b) A committee recommendation does not take effect unless enacted by the general assembly.

Sec. 5. (a) The committee consists of the following members:

(1) Two (2) members of the house of representatives appointed by the speaker of the house of representatives. The members appointed under this subdivision may be members of the same political party.

(2) One (1) member of the house of representatives appointed by the minority leader of the house of representatives.

(3) Two (2) members representing labor in Indiana appointed by the speaker of the house of representatives.

(4) Two (2) members of the senate appointed by the president pro tempore of the senate. The members appointed under this subdivision may be members of the same political party.

(5) One (1) member of the senate appointed by the minority leader of the senate.

(6) Two (2) members representing employers appointed by the president pro tempore of the senate.

(7) The commissioner, or the commissioner's designee, who serves as an ex officio nonvoting member.

(b) If a vacancy on the committee occurs, the person who appointed the member whose position is vacant shall appoint an individual to fill the vacancy using the criteria in subsection (a).

(c) In odd-numbered years the speaker of the house of representatives shall appoint one (1) of the members appointed by the speaker as the chair of the committee. In even-numbered years the president pro tempore of the senate shall appoint one (1) of the members appointed by the president as the chair of the committee.

Sec. 6. (a) The legislative services agency shall provide administrative support for the committee. At the request of the

legislative services agency, the department of workforce development established by IC 22-4.1-2-1 shall assign staff to provide research and other support to assist the legislative services agency in providing administrative support to the committee.

(b) There is annually appropriated to the legislative services agency from the state general fund money necessary for the operation of the committee.

Sec. 7. Six (6) committee members constitute a quorum. The affirmative votes of at least six (6) committee members are necessary for the committee to take official action.

Sec. 8. The committee shall meet at the call of the chair and at other times as the committee considers necessary.

Sec. 9. (a) Each member of the committee who is not a state employee or is not a member of the general assembly is entitled to the following:

(1) The salary per diem provided under IC 4-10-11-2.1(b).

(2) Reimbursement for traveling expenses as provided under IC 4-13-1-4.

(3) Other expenses actually incurred in connection with the member's duties as provided in the state policies and procedures established by the Indiana department of administration and approved by the budget agency.

(b) Each member of the committee who is a state employee but not a member of the general assembly is entitled to the following:

(1) Reimbursement for traveling expenses as provided under IC 4-13-1-4.

(2) Other expenses actually incurred in connection with the member's duties as provided in the state policies and procedures established by the Indiana department of administration and approved by the budget agency.

(c) Each member of the committee who is a member of the general assembly is entitled to the same:

(1) per diem;

(2) mileage; and

(3) travel allowances;

paid to legislative members of interim study committees established by the legislative council.

SECTION 2. IC 22-4-2-32 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 32. "Payment in lieu of contributions" means the required reimbursements by employers of benefits paid attributable to services performed for such employers which are liable to make these payments as provided in IC ~~1971,~~

22-4-10-1. ~~of this article.~~ These payments shall equal the **full** amount of regular benefits and ~~one-half (1/2) of~~ the ~~extended benefits~~ **part of benefits not reimbursed by the federal government under the Federal-State Extended Unemployment Compensation Act of 1970** paid ~~as~~ **that** are attributable to services in the employ of such liable employers.

SECTION 3. IC 22-4-2-34 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 34. (a) With respect to benefits for weeks of unemployment beginning after August 13, 1981, "extended benefit period" means a period which begins with the third week after a week for which there is a state "on" indicator and ends with **the later of the following:**

(1) The third week after the first week for which there is a state "off" indicator. ~~or~~

(2) The thirteenth consecutive week of such period.

(b) However, no extended benefit period may begin by reason of a state "on" indicator before the fourteenth week following the end of a prior extended benefit period which was in effect with respect to this state.

(c) There is a state "on" indicator for this state for a week if the commissioner determines, in accordance with the regulations of the United States Secretary of Labor, that for the period consisting of such week and the immediately preceding twelve (12) weeks, the rate of insured unemployment (not seasonally adjusted) under this article:

(1) equaled or exceeded one hundred twenty percent (120%) of the average of such rates for the corresponding 13-week period ending in each of the preceding two (2) calendar years; and

(2) equaled or exceeded

~~(A) with respect to benefits for weeks of unemployment beginning before September 25, 1982, four percent (4%), and~~

~~(B) with respect to benefits for weeks of unemployment beginning after September 25, 1982,~~ five percent (5%).

However, ~~with respect to benefits for weeks of unemployment beginning after December 31, 1977,~~ the determination of whether there has been a state "on" or "off" indicator beginning or ending any extended benefit period shall be made under this subsection as if it did not contain subdivision (1) ~~and~~ **if** the insured unemployment rate ~~in subdivision (2) were:~~

~~(A) with respect to benefits for weeks of unemployment beginning before September 25, 1982, five percent (5%), and~~

~~(B) with respect to benefits for weeks of unemployment beginning after September 25, 1982,~~ **is at least** six percent

(6%).

Any week for which there would otherwise be a state "on" indicator shall continue to be such a week and may not be determined to be a week for which there is a state "off" indicator.

(d) In addition to the test for a state "on" indicator under subsection (c), there is a state "on" indicator for this state for a week if:

(1) the average rate of total unemployment in Indiana, seasonally adjusted, as determined by the United States Secretary of Labor, for the period consisting of the most recent three (3) months for which data for all states are published before the close of the week, equals or exceeds six and five-tenths percent (6.5%); and

(2) the average rate of total unemployment in Indiana, seasonally adjusted, as determined by the United States Secretary of Labor, for the three (3) month period referred to in subdivision (1) equals or exceeds one hundred ten percent (110%) of the average for either or both of the corresponding three (3) month periods ending in the two (2) preceding calendar years.

There is a state "off" indicator for a week if either of the requirements in subdivisions (1) and (2) are not satisfied. However, any week for which there would otherwise be a state "on" indicator under this section continues to be subject to the "on" indicator and shall not be considered a week for which there is a state "off" indicator. This subsection expires on the later of December 5, 2009, or the week ending four (4) weeks before the last week for which federal sharing is authorized by Section 2005(a) of Division B, Title II (the federal Assistance to Unemployed Workers and Struggling Families Act) of the federal American Recovery and Reinvestment Act of 2009 (P.L. 111-5).

~~(d)~~ **(e)** There is a state "off" indicator for this state for a week if the commissioner determines, in accordance with the regulations of the United States Secretary of Labor, that for the period consisting of such week and the immediately preceding twelve (12) weeks, ~~the rate of insured unemployment (not seasonally adjusted) under this article:~~

~~(1) was less than one hundred twenty percent (120%) of the average of such rates for the corresponding 13-week period ending in each of the preceding two (2) calendar years; or~~

~~(2) was less than:~~

~~(A) with respect to benefits for weeks of unemployment beginning before September 25, 1982, four percent (4%); and~~

~~(B) with respect to benefits for weeks of unemployment beginning after September 25, 1982, five percent (5%).~~

the requirements of subsection (c) have not been met.

~~(c)~~ **(f)** With respect to benefits for weeks of unemployment beginning after August 13, 1981, "rate of insured unemployment," for purposes of ~~subsections (c) and (f),~~ **subsection (c),** means the percentage derived by dividing:

(1) the average weekly number of individuals filing claims for regular compensation in this state for weeks of unemployment with respect to the most recent 13 consecutive week period (as determined by the board on the basis of this state's reports to the United States Secretary of Labor); by

(2) the average monthly employment covered under this article for the first four (4) of the most recent six (6) completed calendar quarters ending before the end of such 13-week period.

~~(f)~~ **(g)** "Regular benefits" means benefits payable to an individual under this article or under the law of any other state (including benefits payable to federal civilian employees and to ex-servicemen pursuant to 5 U.S.C. 8501 through 8525) other than extended benefits. "Additional benefits" means benefits other than extended benefits and which are totally financed by a state payable to exhaustees by reason of conditions of high unemployment or by reason of other special factors under the provisions of any state law. If extended compensation is payable to an individual by this state and additional compensation is payable to ~~him~~ **the individual** for the same week by any state, the individual may elect which of the two (2) types of compensation to claim.

~~(g)~~ **(h)** "Extended benefits" means benefits (including benefits payable to federal civilian employees and to ex-servicemen pursuant to 5 U.S.C. 8501 through 8525) payable to an individual under the provisions of this article for weeks of unemployment in the individual's "eligibility period". Pursuant to Section 3304 of the Internal Revenue Code extended benefits are not payable to interstate claimants filing claims in an agent state which is not in an extended benefit period, against the liable state of Indiana when the state of Indiana is in an extended benefit period. This prohibition does not apply to the first two (2) weeks claimed that would, but for this prohibition, otherwise be payable. However, only one such two (2) week period will be granted on an extended claim. Notwithstanding any other provisions of this chapter, with respect to benefits for weeks of unemployment beginning after October 31, 1981, if the benefit year of any individual ends within an extended benefit period, the remaining balance of extended benefits

that the individual would, but for this clause, be entitled to receive in that extended benefit period, with respect to weeks of unemployment beginning after the end of the benefit year, shall be reduced (but not below zero) by the product of the number of weeks for which the individual received any amounts as trade readjustment allowances within that benefit year, multiplied by the individual's weekly benefit amount for extended benefits.

~~(h)~~ **(i)** "Eligibility period" of an individual means the period consisting of the weeks in the individual's benefit period which begin in an extended benefit period and, if the individual's benefit period ends within such extended benefit period, any weeks thereafter which begin in such extended benefit period. **For any weeks of unemployment beginning after February 17, 2009, and before January 1, 2010, an individual's eligibility period (as described in Section 203(c) of the Federal-State Unemployment Compensation Act of 1970) is, for purposes of any determination of eligibility for extended compensation under state law, considered to include any week that begins:**

(1) after the date as of which the individual exhausts all rights to emergency unemployment compensation; and

(2) during an extended benefit period that began on or before the date described in subdivision (1).

~~(i)~~ **(j)** "Exhaustee" means an individual who, with respect to any week of unemployment in the individual's eligibility period:

(1) has received, prior to such week, all of the regular benefits including dependent's allowances that were available to the individual under this article or under the law of any other state (including benefits payable to federal civilian employees and ex-servicemen under 5 U.S.C. 8501 through 8525) in the individual's current benefit period that includes such week. However, for the purposes of this subsection, an individual shall be deemed to have received all of the regular benefits that were available to the individual although as a result of a pending appeal with respect to wages that were not considered in the original monetary determination in the individual's benefit period or although a nonmonetary decision denying benefits is pending, the individual may subsequently be determined to be entitled to added regular benefits;

(2) may be entitled to regular benefits with respect to future weeks of unemployment but such benefits are not payable with respect to such week of unemployment by reason of seasonal limitations in any state unemployment insurance law; or

(3) having had the individual's benefit period expire prior to such week, has no, or insufficient, wages on the basis of which the individual could establish a new benefit period that would include such week;

and has no right to unemployment benefits or allowances, as the case may be, under the Railroad Unemployment Insurance Act, the Trade Act of 1974, the Automotive Products Trade Act of 1965 and such other federal laws as are specified in regulations issued by the United States Secretary of Labor, and has not received and is not seeking unemployment benefits under the unemployment compensation law of Canada; but if the individual is seeking such benefits and the appropriate agency finally determines that the individual is not entitled to benefits under such law, ~~he~~ **the individual** is considered an exhaustee.

~~(j)~~ **(k)** "State law" means the unemployment insurance law of any state, approved by the United States Secretary of Labor under Section 3304 of the Internal Revenue Code.

SECTION 4. IC 22-4-4-2, AS AMENDED BY P.L.98-2005, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 2. (a) Except as otherwise provided in this section, "wages" means all remuneration as defined in section 1 of this chapter paid to an individual by an employer, remuneration received as tips or gratuities in accordance with Sections 3301 and 3102 et seq. of the Internal Revenue Code, and includes all remuneration considered as wages under Sections 3301 and 3102 et seq. of the Internal Revenue Code. However, the term shall not include any amounts paid as compensation for services specifically excluded by IC 22-4-8-3 or IC 22-4-8-3.5 from the definition of employment as defined in IC 22-4-8-1 and IC 22-4-8-2. The term shall include, but not be limited to, any payments made by an employer to an employee or former employee, under order of the National Labor Relations Board, or a successor thereto, or agency named to perform the duties thereof, as additional pay, back pay, or for loss of employment, or any such payments made in accordance with an agreement made and entered into by an employer, a union, and the National Labor Relations Board.

(b) The term "wages" shall not include the following:

(1) That part of remuneration which, after remuneration equal to:

(A) seven thousand dollars ($7,000), has been paid in a calendar year to an individual by an employer or ~~his~~ **the employer's** predecessor with respect to employment during any calendar year ~~subsequent to~~ **that begins after** December 31, 1982, **and before January 1, 2010; or**

(B) nine thousand five hundred dollars ($9,500), has been paid in a calendar year to an individual by an employer or the employer's predecessor for employment during a calendar year that begins after December 31, 2009;

unless that part of the remuneration is subject to a tax under a federal law imposing a tax against which credit may be taken for contributions required to be paid into a state unemployment fund. For the purposes of this subdivision, the term "employment" shall include service constituting employment under any employment security law of any state or of the federal government. However, nothing in this subdivision shall be taken as an approval or disapproval of any related federal legislation.

(2) The amount of any payment (including any amount paid by an employer for insurance or annuities or into a fund to provide for any such payment) made to, or on behalf of, an individual or any of the individual's dependents under a plan or system established by an employer which makes provision generally for individuals performing service for it (or for such individuals generally and their dependents) or for a class or classes of such individuals (or for a class or classes of such individuals and their dependents) on account of:

(A) retirement;

(B) sickness or accident disability;

(C) medical or hospitalization expenses in connection with sickness or accident disability; or

(D) death.

(3) The amount of any payment made by an employer to an individual performing service for it (including any amount paid by an employer for insurance or annuities or into a fund to provide for any such payment) on account of retirement.

(4) The amount of any payment on account of sickness or accident disability, or medical or hospitalization expenses in connection with sickness or accident disability made by an employer to, or on behalf of, an individual performing services for it and after the expiration of six (6) calendar months following the last calendar month in which the individual performed services for such employer.

(5) The amount of any payment made by an employer to, or on behalf of, an individual performing services for it or to the individual's beneficiary:

(A) from or to a trust exempt from tax under Section 401(a) of the Internal Revenue Code at the time of such payment unless

such payment is made to an individual performing services for the trust as remuneration for such services and not as a beneficiary of the trust; or

(B) under or to an annuity plan which, at the time of such payments, meets the requirements of Section 401(a)(3), 401(a)(4), 401(a)(5), and 401(a)(6) of the Internal Revenue Code.

(6) Remuneration paid in any medium other than cash to an individual for service not in the course of the employer's trade or business.

(7) The amount of any payment (other than vacation or sick pay) made to an individual after the month in which the individual attains the age of sixty-five (65) if the individual did not perform services for the employer in the period for which such payment is made.

(8) The payment by an employer (without deduction from the remuneration of the employee) of the tax imposed upon an employee under Sections 3101 et seq. of the Internal Revenue Code (Federal Insurance Contributions Act).

SECTION 5. IC 22-4-6-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 1. (a) "Employing unit" means any individual or type of organization, including any partnership, **limited liability partnership,** association, trust, joint venture, estate, **limited liability company,** joint stock company, insurance company, corporation, whether domestic or foreign, or the receiver, trustee in bankruptcy, trustee, or successor to any of the foregoing, or the legal representative of a deceased person, which at any time has had one (1) or more individuals performing services for it within this state for remuneration or under any contract of hire, written or oral, expressed or implied. Where any such individual performing services hires a helper to assist in performing such services, each such helper shall be deemed to be performing services for such employing unit for all purposes of this article, whether such helper was hired or paid directly by the employing unit or by the individual, provided the employing unit has actual or constructive knowledge of the services.

(b) All such individuals performing services within this state for any employing unit which maintains two (2) or more separate establishments within this state shall be deemed to be employed by a single employing unit for all purposes of this article.

SECTION 6. IC 22-4-6-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 3. (a) If two (2) or more related **entities, including partnerships, limited liability partnerships,**

associations, trusts, joint ventures, estates, joint stock companies, limited liability companies, insurance companies, or corporations, **or a combination of these entities,** concurrently employ the same individual and compensate that individual through a common paymaster that is one (1) of the ~~corporations,~~ **entities,** those ~~corporations~~ **entities** shall be considered to be one (1) employing unit.

(b) For purposes of this section, ~~corporations~~ **entities** shall be considered related ~~corporations~~ **entities** if they satisfy any one (1) of the following tests at any time during the calendar quarter:

(1) The corporations are members of a "controlled group of corporations", as defined in Section 1563 of the Internal Revenue Code (generally parent-subsidiary or brother-sister controlled groups), or would be members if Section 1563(a)(4) and 1563(b) of the Internal Revenue Code did not apply and if the phrase "more than fifty percent (50%)" were substituted for the phrase "at least eighty percent (80%)" wherever it appears in Section 1563(a) of the Internal Revenue Code.

(2) In the case of ~~a corporation~~ **an entity** that does not issue stock, either fifty percent (50%) or more of the members of one (1) ~~corporation's~~ **entity's** board of directors (or other governing body) are members of the other ~~corporation's~~ **entity's** board of directors (or other governing body), or the holders of fifty percent (50%) or more of the voting power to select ~~such~~ **these** members are concurrently the holders of fifty percent (50%) or more of that power with respect to the other ~~corporation.~~ **entity.**

(3) Fifty percent (50%) or more of one (1) ~~corporation's~~ **entity's** officers are concurrently officers of the other ~~corporation.~~ **entity.**

(4) Thirty percent (30%) or more of one (1) ~~corporation's~~ **entity's** employees are concurrently employees of the other ~~corporation.~~ **entity.**

(5) The entities are part of an affiliated group, as defined in Section 1504 of the Internal Revenue Code, except that the ownership percentage in Section 1504(a)(2) of the Internal Revenue Code shall be determined using fifty percent (50%) instead of eighty percent (80%).

~~Corporations~~ **Entities** shall be considered related ~~corporations~~ **entities** for an entire calendar quarter if they satisfy the requirements of this subsection at any time during the calendar quarter.

(c) For purposes of this section, "concurrent employment" means the contemporaneous existence of an employment relationship between an individual and two (2) or more ~~corporations.~~ **entities.**

SECTION 7. IC 22-4-8-2, AS AMENDED BY P.L.3-2008,

SECTION 158, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 2. The term "employment" shall include:

(a) An individual's entire service performed within or both within and without Indiana if the service is localized in Indiana.

(b) An individual's entire service performed within or both within and without Indiana if the service is not localized in any state, but some of the service is performed in Indiana and:

(1) the base of operations, or, if there is no base of operations, then the place from which such service is directed or controlled is in Indiana;

(2) the base of operations or place from which such service is directed or controlled is not in any state in which some part of the service is performed but the individual's residence is in Indiana; or

(3) such service is not covered under the unemployment compensation law of any other state or Canada, and the place from which the service is directed or controlled is in Indiana.

(c) Services not covered under subsections (a) and (b) and performed entirely without Indiana, with respect to no part of which contributions are required and paid under an unemployment compensation law of any other state or of the United States, shall be deemed to be employment subject to this article if the department approves the election of the individual performing such services and the employing unit for which such services are performed, that the entire services of such individual shall be deemed to be employment subject to this article.

(d) Services covered by an election duly approved by the department, in accordance with an agreement pursuant to IC 22-4-22-1 through IC 22-4-22-5, shall be deemed to be employment during the effective period of such election.

(e) Service shall be deemed to be localized within a state if:

(1) the service is performed entirely within such state; or

(2) the service is performed both within and without such state, but the service performed without such state is incidental to the individual's service within the state, such as is temporary or transitory in nature or consists of isolated transactions.

(f) Periods of vacation with pay or leave with pay, other than military leave granted or given to an individual by an employer.

(g) Notwithstanding any other provisions of this article, the term employment shall also include all services performed by an officer or member of the crew of an American vessel or American aircraft, on or

in connection with such vessel or such aircraft, provided that the operating office, from which the operations of such vessel operating on navigable waters within or the operations of such aircraft within, or the operation of such vessel or aircraft within and without the United States are ordinarily and regularly supervised, managed, directed, and controlled, is within this state.

(h) Services performed for an employer which is subject to contribution solely by reason of liability for any federal tax against which credit may be taken for contributions paid into a state unemployment compensation fund.

(i) The following:

(1) Service performed after December 31, 1971, by an individual in the employ of this state or any of its instrumentalities (or in the employ of this state and one (1) or more other states or their instrumentalities) for a hospital or eligible postsecondary educational institution located in Indiana.

(2) Service performed after December 31, 1977, by an individual in the employ of this state or a political subdivision of the state or any instrumentality of the state or a political subdivision, or any instrumentality which is wholly owned by the state and one (1) or more other states or political subdivisions, if the service is excluded from "employment" as defined in Section 3306(c)(7) of the Federal Unemployment Tax Act (26 U.S.C. 3306(c)(7)). However, service performed after December 31, 1977, as the following is excluded:

(A) An elected official.

(B) A member of a legislative body or of the judiciary of a state or political subdivision.

(C) A member of the state national guard or air national guard.

(D) An employee serving on a temporary basis in the case of fire, snow, storm, earthquake, flood, or similar emergency.

(E) An individual in a position which, under the laws of the state, is designated as:

(i) a major nontenured policymaking or advisory position; or

(ii) a policymaking or advisory position the performance of the duties of which ordinarily does not require more than eight (8) hours per week.

(3) Service performed after March 31, 1981, by an individual whose service is part of an unemployment work relief or work training program assisted or financed in whole by any federal agency or an agency of this state or a political subdivision of this state, by an individual receiving such work relief or work training

is excluded.

(j) Service performed after December 31, 1971, by an individual in the employ of a religious, charitable, educational, or other organization, but only if the following conditions are met:

(1) The service is excluded from "employment" as defined in the Federal Unemployment Tax Act solely by reason of Section 3306(c)(8) of that act (26 U.S.C. 3306(c)(8)).

(2) The organization had four (4) or more individuals in employment for some portion of a day in each of twenty (20) different weeks, whether or not such weeks were consecutive, within either the current or preceding calendar year, regardless of whether they were employed at the same moment of time.

(3) For the purposes of subdivisions (1) and (2), the term "employment" does not apply to service performed as follows:

(A) In the employ of:

(i) a church or convention or association of churches; or

(ii) an organization which is operated primarily for religious purposes and which is operated, supervised, controlled, or principally supported by a church or convention or association of churches.

(B) By a duly ordained, commissioned, or licensed minister of a church in the exercise of his ministry or by a member of a religious order in the exercise of duties required by such order.

(C) Before January 1, 1978, in the employ of a school which is not an eligible postsecondary educational institution.

(D) In a facility conducted for the purpose of carrying out a program of rehabilitation for individuals whose earning capacity is impaired by age or physical or mental deficiency or injury or providing remunerative work for individuals who because of their impaired physical or mental capacity cannot be readily absorbed in the competitive labor market by an individual receiving such rehabilitation or remunerative work.

(E) As part of an unemployment work relief or work training program assisted or financed in whole or in part by any federal agency or an agency of a state or political subdivision thereof, by an individual receiving such work relief or work training.

(k) The service of an individual who is a citizen of the United States, performed outside the United States (except in Canada), after December 31, 1971, in the employ of an American employer (other than service which is deemed "employment" under the provisions of subsection (a), (b), or (e) or the parallel provisions of another state's law), if **the following apply:**

(1) The employer's principal place of business in the United States is located in this state. ~~or~~

(2) The employer has no place of business in the United States, but **the employer is:**

(A) ~~The employer is~~ an individual who is a resident of this state; ~~or~~

(B) ~~The employer is~~ a corporation which is organized under the laws of this state; ~~or~~

(C) ~~The employer is~~ a partnership, **limited liability partnership,** or a trust and the number of the partners or trustees who are residents of this state is greater than the number who are residents of any one (1) other state; or

(D) an association, a joint venture, an estate, a limited liability company, a joint stock company, or an insurance company (referred to as an "entity" in this clause), and either:

(i) the entity is organized under the laws of this state; or

(ii) the number of owners, members, or beneficiaries who are residents of this state is greater than the number who are residents of any one (1) other state.

(3) None of the criteria of subdivisions (1) and (2) is met but the employer has elected coverage in this state or, the employer having failed to elect coverage in any state, the individual has filed a claim for benefits, based on such service, under the law of this state.

(4) An "American employer," for purposes of this subsection, means:

(A) an individual who is a resident of the United States; ~~or~~

(B) a partnership **or limited liability partnership,** if two-thirds (2/3) or more of the partners are residents of the United States; ~~or~~

(C) a trust, if all of the trustees are residents of the United States; or

(D) a corporation, **an association, a joint venture, an estate, a limited liability company, a joint stock company, or an insurance company** organized **or established** under the laws of the United States or of any state.

(l) **The term "employment" also includes the following:**

(1) Service performed after December 31, 1977, by an individual in agricultural labor (as defined in section 3(c) of this chapter) when the service is performed for an employing unit which:

(A) during any calendar quarter in either the current or

preceding calendar year paid cash remuneration of twenty thousand dollars ($20,000) or more to individuals employed in agricultural labor; or

(B) for some portion of a day in each of twenty (20) different calendar weeks, whether or not the weeks were consecutive, in either the current or the preceding calendar year, employed in agricultural labor ten (10) or more individuals, regardless of whether they were employed at the same time.

(2) For the purposes of this subsection, any individual who is a member of a crew furnished by a crew leader to perform service in agricultural labor for any other person shall be treated as an employee of the crew leader:

(A) if the crew leader holds a valid certificate of registration under the Farm Labor Contractor Registration Act of 1963, or substantially all the members of the crew operate or maintain tractors, mechanized harvesting or crop dusting equipment, or any other mechanized equipment, which is provided by the crew leader; and

(B) if the individual is not an employee of another person within the meaning of section 1 of this chapter.

(3) For the purposes of subdivision (1), in the case of an individual who is furnished by a crew leader to perform service in agricultural labor for any other person and who is not treated as an employee of the crew leader under subdivision (2):

(A) the other person and not the crew leader shall be treated as the employer of the individual; and

(B) the other person shall be treated as having paid cash remuneration to the individual in an amount equal to the amount of cash remuneration paid to the individual by the crew leader (either on the individual's own behalf or on behalf of the other person) for the service in agricultural labor performed for the other person.

(4) For the purposes of this subsection, the term "crew leader" means an individual who:

(A) furnishes individuals to perform service in agricultural labor for any other person;

(B) pays (either on the individual's own behalf or on behalf of the other person) the agricultural laborers furnished by the individual for the service in agricultural labor performed by them; and

(C) has not entered into a written agreement with the other person under which the individual is designated as an

employee of the other person.

(m) The term "employment" includes domestic service after December 31, 1977, in a private home, local college club, or local chapter of a college fraternity or sorority performed for a person who paid cash remuneration of one thousand dollars ($1,000) or more after December 31, 1977, in the current calendar year or the preceding calendar year to individuals employed in the domestic service in any calendar quarter.

SECTION 8. IC 22-4-10-1, AS AMENDED BY P.L.108-2006, SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 1. (a) Contributions shall accrue and become payable from each employer for each calendar year in which it is subject to this article with respect to wages paid during such calendar year. Where the status of an employer is changed by cessation or disposition of business or appointment of a receiver, trustees, trustee in bankruptcy, or other fiduciary, contributions shall immediately become due and payable on the basis of wages paid or payable by such employer as of the date of the change of status. Such contributions shall be paid to the department in such manner as the department may prescribe, and shall not be deducted, in whole or in part, from the remuneration of individuals in an employer's employ. When contributions are determined in accordance with Schedule A as provided in IC 22-4-11-3, the department may prescribe rules to require an estimated advance payment of contributions in whole or in part, if in the judgment of the department such advance payments will avoid a debit balance in the fund during the calendar quarter to which the advance payment applies. An adjustment shall be made following the quarter in which an advance payment has been made to reflect the difference between the estimated contribution and the contribution actually payable. Advance payment of contributions shall not be required for more than one (1) calendar quarter in any calendar year.

(b) Any employer which is, or becomes, subject to this article by reason of IC 22-4-7-2(g) or IC 22-4-7-2(h) shall pay contributions as provided under this article unless it elects to become liable for "payments in lieu of contributions" (as defined in IC 22-4-2-32).

(c) Except as provided in subsection (e), the election to become liable for "payments in lieu of contributions" must be filed with the department on a form prescribed by the department not later than thirty-one (31) days following the date upon which such entity qualifies as an employer under this article, and shall be for a period of not less than two (2) calendar years.

(d) Any employer that makes an election in accordance with

subsections (b) and (c) will continue to be liable for "payments in lieu of contributions" until it files with the department a written notice terminating its election. The notice filed by an employer to terminate its election must be filed not later than thirty (30) days prior to the beginning of the taxable year for which such termination shall first be effective.

(e) Any employer that qualifies to elect to become liable for "payments in lieu of contributions" and has been paying contributions under this article, may change to a reimbursable basis by filing with the department not later than thirty (30) days prior to the beginning of any taxable year a written notice of election to become liable for payments in lieu of contributions. Such election shall not be terminable by the organization for that and the next year.

(f) Employers making "payments in lieu of contributions" under subsections (b) and (c) shall make reimbursement payments monthly. At the end of each calendar month the department shall bill each such employer (or group of employers) for an amount equal to the full amount of regular benefits plus ~~one-half (1/2) of~~ the ~~amount of extended~~ **part of** benefits **not reimbursed by the federal government under the Federal-State Extended Unemployment Compensation Act of 1970** paid during such month that is attributable to services in the employ of such employers or group of employers. Governmental entities of this state and its political subdivisions electing to make "payments in lieu of contributions" shall be billed by the department at the end of each calendar month for an amount equal to the full amount of regular benefits plus the ~~full amount of extended~~ **part of** benefits **not reimbursed by the federal government under the Federal-State Extended Unemployment Compensation Act of 1970** paid during the month that is attributable to service in the employ of the governmental entities.

(g) Payment of any bill rendered under subsection (f) shall be made not later than thirty (30) days after such bill was mailed to the last known address of the employer or was otherwise delivered to it, unless there has been an application for review and redetermination filed under subsection (i).

(h) Payments made by any employer under the provisions of subsections (f) through (j) shall not be deducted or deductible, in whole or in part, from the remuneration of individuals in the employ of the employer.

(i) The amount due specified in any bill from the department shall be conclusive on the employer unless, not later than fifteen (15) days after the bill was mailed to its last known address or otherwise

delivered to it, the employer files an application for redetermination. If the employer so files, the employer shall have an opportunity to be heard, and such hearing shall be conducted by a liability administrative law judge pursuant to IC 22-4-32-1 through IC 22-4-32-15. After the hearing, the liability administrative law judge shall immediately notify the employer in writing of the finding, and the bill, if any, so made shall be final, in the absence of judicial review proceedings, fifteen (15) days after such notice is issued.

(j) Past due payments of amounts in lieu of contributions shall be subject to the same interest and penalties that, pursuant to IC 22-4-29, apply to past due contributions.

(k) Two (2) or more employers that have elected to become liable for "payments in lieu of contributions" in accordance with subsections (b) and (c) may file a joint application with the department for the establishment of a group account for the purpose of sharing the cost of benefits paid that are attributable to service in the employ of such employers. Such group account shall be established as provided in regulations prescribed by the commissioner.

SECTION 9. IC 22-4-10-3, AS AMENDED BY P.L.108-2006, SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 3. **(a) This subsection applies before January 1, 2010.** Except as provided in section 1(b) through 1(e) of this chapter, each employer shall pay contributions equal to five and six-tenths percent (5.6%) of wages, except as otherwise provided in IC 22-4-11-2, IC 22-4-11-3, IC 22-4-11.5, and IC 22-4-37-3.

(b) This subsection applies after December 31, 2009. Except as provided in section 1(b) through 1(e) of this chapter, each employer shall pay contributions equal to twelve percent (12%) of wages, except as otherwise provided in IC 22-4-11-2, IC 22-4-11-3.5, 22-4-11.5, and IC 22-4-37-3.

SECTION 10. IC 22-4-10-5.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 5.5. (a) This section applies to:**

(1) an employer:

(A) that is subject to this article for wages paid during a calendar year;

(B) whose contribution rate for the calendar year is determined under this chapter, IC 22-4-11, IC 22-4-11.5, or IC 22-4-37-3; and

(C) that has a debit reserve ratio of greater than zero for the calendar year; and

(2) calendar years beginning after December 31, 2009.

(b) After December 31, 2009, and before January 1, 2012, an employer may elect to make a voluntary contribution to the fund (as defined in IC 22-4-2-9) and receive a credit computed under subsection (c) to the employer's experience account.

(c) The employer's credit for a voluntary contribution made under subsection (b) is equal to:

(1) the amount of the employer's voluntary contribution; multiplied by

(2) two hundred fifty percent (250%).

(d) The employer may pay the voluntary contribution by making equal periodic payments over a period not to exceed five (5) years. The employer must receive the department's approval for any payment schedule proposed by the employer.

(e) An employer may receive a credit under this section only:

(1) one (1) time;

(2) after making all of the periodic payments required under subsection (d); and

(3) to the extent necessary to attain the contribution rate that is the next lower rate to the contribution rate assigned to the employer at the time the employer elects to make the voluntary contribution.

(f) This section expires January 1, 2017.

SECTION 11. IC 22-4-11-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 1. (a) For the purpose of charging employers' experience or reimbursable accounts with regular benefits paid subsequent to July 3, 1971, to any eligible individual but except as provided in IC 22-4-22 and subsection (f), such benefits paid shall be charged proportionately against the experience or reimbursable accounts of the individual's employers in the individual's base period (on the basis of total wage credits established in such base period) against whose accounts the maximum charges specified in this section shall not have been previously made. Such charges shall be made in the inverse chronological order in which the wage credits of such individuals were established. However, when an individual's claim has been computed for the purpose of determining the individual's regular benefit rights, maximum regular benefit amount, and the proportion of such maximum amount to be charged to the experience or reimbursable accounts of respective chargeable employers in the base period, the experience or reimbursable account of any employer charged with regular benefits paid shall not be credited or recredited with any portion of such maximum amount because of any portion of such individual's wage credits remaining

uncharged at the expiration of the individual's benefit period. The maximum so charged against the account of any employer shall not exceed twenty-eight percent (28%) of the total wage credits of such individual with each such employer with which wage credits were established during such individual's base period. Benefits paid under provisions of IC 22-4-22-3 in excess of the amount that the claimant would have been monetarily eligible for under other provisions of this article shall be paid from the fund and not charged to the experience account of any employer. This exception shall not apply to those employers electing to make payments in lieu of contributions who shall be charged for ~~all~~ **the full amount of regular** benefit payments ~~which~~ **and the part of benefits not reimbursed by the federal government under the Federal-State Extended Unemployment Compensation Act of 1970 that** are attributable to service in their employ. Irrespective of the twenty-eight percent (28%) maximum limitation provided for in this section, ~~any extended~~ **the part of** benefits **not reimbursed by the federal government under the Federal-State Extended Unemployment Compensation Act of 1970** paid to an eligible individual based on service with a governmental entity of this state or its political subdivisions shall be charged to the experience or reimbursable accounts of the employers, and ~~fifty percent (50%) of any extended~~ **the part of** benefits **not reimbursed by the federal government under the Federal-State Extended Unemployment Compensation Act of 1970** paid to an eligible individual shall be charged to the experience or reimbursable accounts of the individual's employers in the individual's base period, other than governmental entities of this state or its political subdivisions, in the same proportion and sequence as are provided in this section for regular benefits paid. Additional benefits paid under IC 22-4-12-4(c) and benefits paid under IC 22-4-15-1(c)(8) shall:

(1) be paid from the fund; and

(2) not be charged to the experience account or the reimbursable account of any employer.

(b) If the aggregate of wages paid to an individual by two (2) or more employers during the same calendar quarter exceeds the maximum wage credits (as defined in IC 22-4-4-3) then the experience or reimbursable account of each such employer shall be charged in the ratio which the amount of wage credits from such employer bears to the total amount of wage credits during the base period.

(c) When wage records show that an individual has been employed by two (2) or more employers during the same calendar quarter of the base period but do not indicate both that such employment was

consecutive and the order of sequence thereof, then and in such cases it shall be deemed that the employer with whom the individual established a plurality of wage credits in such calendar quarter is the most recent employer in such quarter and its experience or reimbursable account shall be first charged with benefits paid to such individual. The experience or reimbursable account of the employer with whom the next highest amount of wage credits were established shall be charged secondly and the experience or reimbursable accounts of other employers during such quarters, if any, shall likewise be charged in order according to plurality of wage credits established by such individual.

(d) Except as provided in subsection (f), if an individual:

(1) voluntarily leaves an employer without good cause in connection with the work; or

(2) is discharged from an employer for just cause;

wage credits earned with the employer from whom the employee has separated under these conditions shall be used to compute the claimant's eligibility for benefits, but charges based on such wage credits shall be paid from the fund and not charged to the experience account of any employer. However, this exception shall not apply to those employers who elect to make payments in lieu of contributions, who shall be charged for all benefit payments which are attributable to service in their employ.

(e) Any nonprofit organization which elects to make payments in lieu of contributions into the unemployment compensation fund as provided in this article is not liable to make the payments with respect to the benefits paid to any individual whose base period wages include wages for previously uncovered services as defined in IC 22-4-4-4, nor is the experience account of any other employer liable for charges for benefits paid the individual to the extent that the unemployment compensation fund is reimbursed for these benefits pursuant to Section 121 of P.L.94-566. Payments which otherwise would have been chargeable to the reimbursable or contributing employers shall be charged to the fund.

(f) If an individual:

(1) earns wages during the individual's base period through employment with two (2) or more employers concurrently;

(2) is separated from work by one (1) of the employers for reasons that would not result in disqualification under IC 22-4-15-1; and

(3) continues to work for one (1) or more of the other employers after the end of the base period and continues to work during the applicable benefit year on substantially the same basis as during

the base period;

wage credits earned with the base period employers shall be used to compute the claimant's eligibility for benefits, but charges based on the wage credits from the employer who continues to employ the individual shall be charged to the experience or reimbursable account of the separating employer.

(g) Subsection (f) does not affect the eligibility of a claimant who otherwise qualifies for benefits nor the computation of benefits.

(h) Unemployment benefits paid shall not be charged to the experience account of a base period employer when the claimant's unemployment from the employer was a direct result of the condemnation of property by a municipal corporation (as defined in IC 36-1-2-10), the state, or the federal government, a fire, a flood, or an act of nature, when at least fifty percent (50%) of the employer's employees, including the claimant, became unemployed as a result. This exception does not apply when the unemployment was an intentional result of the employer or a person acting on behalf of the employer.

SECTION 12. IC 22-4-11-2, AS AMENDED BY P.L.108-2006, SECTION 15, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 2. (a) Except as provided in IC 22-4-11.5, the department shall for each year determine the contribution rate applicable to each employer.

(b) The balance shall include contributions with respect to the period ending on the computation date and actually paid on or before July 31 immediately following the computation date and benefits actually paid on or before the computation date and shall also include any voluntary payments made in accordance with IC 22-4-10-5 **or IC 22-4-10-5.5:**

(1) for each calendar year, an employer's rate shall be determined in accordance with the rate schedules in section ~~3 or~~ 3.3 **or 3.5** of this chapter; and

(2) for each calendar year, an employer's rate shall be two and seven-tenths percent (2.7%) **before January 1, 2010, and two and five-tenths percent (2.5%) after December 31, 2009,** except as otherwise provided in IC 22-4-37-3, unless and until:

(A) the employer has been subject to this article throughout the thirty-six (36) consecutive calendar months immediately preceding the computation date; and

(B) there has been some annual payroll in each of the three (3) twelve (12) month periods immediately preceding the computation date.

(c) **This subsection applies before January 1, 2010.** In addition to the conditions and requirements set forth and provided in subsection (b)(2)(A) and (b)(2)(B), an employer's rate shall not be less than five and six-tenths percent (5.6%) unless all required contribution and wage reports have been filed within thirty-one (31) days following the computation date and all contributions, penalties, and interest due and owing by the employer or the employer's predecessors for periods prior to and including the computation date have been paid:

(1) within thirty-one (31) days following the computation date; or

(2) within ten (10) days after the department has given the employer a written notice by registered mail to the employer's last known address of:

(A) the delinquency; or

(B) failure to file the reports;

whichever is the later date.

The board or the board's designee may waive the imposition of rates under this subsection if the board finds the employer's failure to meet the deadlines was for excusable cause. The department shall give written notice to the employer before this additional condition or requirement shall apply.

(d) This subsection applies after December 31, 2009. In addition to the conditions and requirements set forth and provided in subsection (b)(2)(A) and (b)(2)(B), an employer's rate shall not be less than twelve percent (12%) unless all required contributions and wage reports have been filed within thirty-one (31) days following the computation date and all contributions, penalties, and interest due and owning by the employer or the employer's predecessor for periods before and including the computation date have been paid:

(1) within thirty-one (31) days following the computation date; or

(2) within ten (10) days after the department has given the employer a written notice by registered mail to the employer's last known address of:

(A) the delinquency; or

(B) failure to file the reports;

whichever is the later date. The board or the board's designee may waive the imposition of rates under this subsection if the board finds the employer's failure to meet the deadlines was for excusable cause. The department shall give written notice to the employer before this additional condition or requirement shall apply.

~~(d)~~ **(e)** However, if the employer is the state or a political

subdivision of the state or any instrumentality of a state or a political subdivision, or any instrumentality which is wholly owned by the state and one (1) or more other states or political subdivisions, the employer may contribute at a rate of:

(1) one percent (1%), **before January 1, 2010; or**

(2) one and six-tenths percent (1.6%), after December 31, 2009;

until it has been subject to this article throughout the thirty-six (36) consecutive calendar months immediately preceding the computation date.

~~(e)~~ **(f)** On the computation date every employer who had taxable wages in the previous calendar year shall have the employer's experience account charged with the amount determined under the following formula:

STEP ONE: Divide:

(A) the employer's taxable wages for the preceding calendar year; by

(B) the total taxable wages for the preceding calendar year.

STEP TWO: Multiply the quotient determined under STEP ONE by the total amount of benefits charged to the fund under section 1 of this chapter.

~~(f)~~ **(g)** One (1) percentage point of the rate imposed under subsection (c) **or (d),** or the amount of the employer's payment that is attributable to the increase in the contribution rate, whichever is less, shall be imposed as a penalty that is due and shall be deposited upon collection into the special employment and training services fund established under IC 22-4-25-1. The remainder of the contributions paid by an employer pursuant to the maximum rate shall be:

(1) considered a contribution for the purposes of this article; and

(2) deposited in the unemployment insurance benefit fund established under IC 22-4-26.

SECTION 13. IC 22-4-11-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 3. (a) The applicable schedule of rates for ~~the~~ calendar ~~year 1983 and thereafter~~ **years before January 1, 2010,** shall be determined by the ratio resulting when the balance in the fund as of the determination date is divided by the total payroll of all subject employers for the immediately preceding calendar year. Schedule A, B, C, or D, appearing on the line opposite the fund ratio in the schedule below, shall be applicable in determining and assigning each employer's contribution rate for the calendar year immediately following the determination date. For the purposes of this subsection, "total payroll" means total remuneration reported by all

contributing employers as required by this article and does not include the total payroll of any employer who elected to become liable for payments in lieu of contributions (as defined in IC 22-4-2-32). For the purposes of this subsection, "subject employers" means those employers who are subject to contribution.

FUND RATIO SCHEDULE

When the Fund Ratio Is:

As Much As	But Less Than	Applicable Schedule
	1.0%	A
1.0%	1.5%	B
1.5%	2.25%	C
2.25%		D

~~(b) For calendar years before 2002, if the conditions and requirements of section 2 of this chapter are met, the rate of contributions shall be determined and assigned, with respect to each calendar year, to employers whose accounts have a credit balance and who are eligible therefor according to each employer's credit reserve ratio. Each employer shall be assigned the contribution rate appearing in the applicable schedule A, B, C, or D on the line opposite his credit reserve ratio as set forth in the rate schedule below:~~

~~RATE SCHEDULE FOR ACCOUNTS WITH CREDIT BALANCES~~

~~When the Credit Reserve Ratio Is:~~

As Much As	But Less Than	Rate Schedules (%) A	B	C	D	E
3.0		1.2	0.2	0.2	0.2	0.15
2.8	3.0	1.4	0.4	0.2	0.2	0.15
2.6	2.8	1.6	0.6	0.2	0.2	0.15
2.4	2.6	1.8	0.8	0.4	0.2	0.2
2.2	2.4	2.0	1.0	0.6	0.2	0.2
2.0	2.2	2.2	1.2	0.8	0.4	0.4
1.8	2.0	2.4	1.4	1.0	0.6	0.6
1.6	1.8	2.6	1.6	1.2	0.8	0.8
1.4	1.6	2.8	1.8	1.4	1.0	1.0
1.2	1.4	3.0	2.0	1.6	1.2	1.2
1.0	1.2	3.2	2.2	1.8	1.4	1.4
0.8	1.0	3.4	2.4	2.0	1.6	1.6
0.6	0.8	3.6	2.6	2.2	1.8	1.8
0.4	0.6	3.8	2.8	2.4	2.0	2.0
0.2	0.4	4.0	3.0	2.6	2.2	2.2

~~0 0.2 4.2 3.2 2.8 2.4 2.4~~

~~(c) Each employer whose account as of any computation date occurring on and after June 30, 1984, shows a debit balance shall be assigned the rate of contributions appearing on the line opposite his debit ratio as set forth in the following rate schedule for accounts with debit balances:~~

~~RATE SCHEDULE FOR ACCOUNTS WITH DEBIT BALANCES~~

~~When the Debit Reserve Ratio Is:~~

~~As Much As~~	~~But Less Than~~	~~Rate Schedules (%) A~~	~~B~~	~~C~~	~~D~~	~~E~~
	~~1.5~~	~~4.5~~	~~4.4~~	~~4.3~~	~~4.2~~	~~3.6~~
~~1.5~~	~~3.0~~	~~4.8~~	~~4.7~~	~~4.6~~	~~4.5~~	~~3.8~~
~~3.0~~	~~4.5~~	~~5.1~~	~~5.0~~	~~4.9~~	~~4.8~~	~~4.1~~
~~4.5~~	~~6.0~~	~~5.4~~	~~5.3~~	~~5.2~~	~~5.1~~	~~4.4~~
~~6.0~~		~~5.7~~	~~5.6~~	~~5.5~~	~~5.4~~	~~5.4~~

(b) Except as provided in subsection (c), the applicable schedule of rates for calendar years after December 31, 2009, shall be determined by the ratio resulting when the balance in the fund as of the determination date is divided by the total payroll of all subject employers for the immediately preceding calendar year. Schedules A through I appearing on the line opposite the fund ratio in the schedule below are applicable in determining and assigning each employer's contribution rate for the calendar year immediately following the determination date. For purposes of this subsection, "total payroll" means total remuneration reported by all contributing employers as required by this article and does not include the total payroll of any employer who elected or is required to become liable for payments in lieu of contributions (as defined in IC 22-4-2-32). For purposes of this subsection, "subject employers" means those employers who are subject to contribution.

FUND RATIO SCHEDULE

When the Fund Ratio Is:

As Much As	But Less Than	Applicable Schedule
	0.2%	A
0.2%	0.4%	B
0.4%	0.6%	C
0.6%	0.8%	D
0.8%	1.0%	E

1.0%	**1.2%**	**F**
1.2%	**1.4%**	**G**
1.4%	**1.6%**	**H**
1.6%		**I**

(c) For calendar year 2010 only, Schedule B applies in determining and assigning each employer's contribution rate.

(d) Any adjustment in the amount charged to any employer's experience account made subsequent to the assignment of rates of contributions for any calendar year shall not operate to alter the amount charged to the experience accounts of any other base-period employers.

SECTION 14. IC 22-4-11-3.3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 3.3. (a) For calendar years after 2001 **and before 2010,** if the conditions of section 2 of this chapter are met, the rate of contributions shall be determined and assigned, with respect to each calendar year, to employers whose accounts have a credit balance and who are eligible therefore according to each employer's credit reserve ratio. Each employer shall be assigned the contribution rate appearing in the applicable schedule A, B, C, D, or E on the line opposite the employer's credit reserve ratio as set forth in the rate schedule below:

RATE SCHEDULE FOR ACCOUNTS
WITH CREDIT BALANCES

When the Credit Reserve Ratio Is:

As Much As	But Less Than	Rate Schedules (%) A	B	C	D	E
3.00		1.10	0.10	0.10	0.10	0.15
2.80	3.00	1.30	0.30	0.10	0.10	0.15
2.60	2.80	1.50	0.50	0.10	0.10	0.15
2.40	2.60	1.70	0.70	0.30	0.10	0.20
2.20	2.40	1.90	0.90	0.50	0.10	0.20
2.00	2.20	2.10	1.10	0.70	0.30	0.40
1.80	2.00	2.30	1.30	0.90	0.50	0.60
1.60	1.80	2.50	1.50	1.10	0.70	0.80
1.40	1.60	2.70	1.70	1.30	0.90	1.00
1.20	1.40	2.90	1.90	1.50	1.10	1.20
1.00	1.20	3.10	2.10	1.70	1.30	1.40
0.80	1.00	3.30	2.30	1.90	1.50	1.60
0.60	0.80	3.50	2.50	2.10	1.70	1.80
0.40	0.60	3.70	2.70	2.30	1.90	2.00
0.20	0.40	3.90	2.90	2.50	2.10	2.20
0.00	0.20	4.10	3.10	2.70	2.30	2.40

(b) For calendar years after 2001 **and before 2010,** if the conditions of section 2 of this chapter are met, the rate of contributions shall be determined and assigned, with respect to each calendar year, to employers whose accounts have a debit balance and who are eligible therefore according to each employer's debit reserve ratio. Each employer shall be assigned the contribution rate appearing in the applicable schedule A, B, C, D, or E on the line opposite the employer's debit reserve ratio as set forth in the rate schedule below:

RATE SCHEDULE FOR ACCOUNTS
WITH DEBIT BALANCES

When the Debit Reserve Ratio Is:

As Much As	But Less Than	Rate Schedules (%) A	B	C	D	E
	1.50	4.40	4.30	4.20	4.10	5.40
1.50	3.00	4.70	4.60	4.50	4.40	5.40
3.00	4.50	5.00	4.90	4.70	4.70	5.40
4.50	6.00	5.30	5.20	5.10	5.00	5.40
6.00		5.60	5.50	5.40	5.40	5.40

SECTION 15. IC 22-4-11-3.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 3.5. (a) For calendar years after 2009, if the conditions of section 2 of this chapter are met, the rate of contributions shall be determined and assigned, with respect to each calendar year, to employers whose accounts have a credit balance and who are therefore eligible according to each employer's credit reserve ratio. Each employer shall be assigned the contribution rate appearing in the applicable schedule A through I on the line opposite the employer's credit reserve ratio as set forth in the rate schedule below:**

RATE SCHEDULE FOR ACCOUNTS
WITH CREDIT BALANCES

When the Credit Reserve Ratio Is:

As Much As	**But Less Than**	**Rate Schedules (%) A**	**B**	**C**	**D**	**E**
3.00		**0.75**	**0.70**	**0.70**	**0.60**	**0.50**
2.80	**3.00**	**1.00**	**0.90**	**0.90**	**0.80**	**0.70**
2.60	**2.80**	**1.30**	**1.20**	**1.10**	**1.00**	**0.90**
2.40	**2.60**	**1.60**	**1.50**	**1.40**	**1.30**	**1.20**
2.20	**2.40**	**1.90**	**1.80**	**1.70**	**1.50**	**1.40**
2.00	**2.20**	**2.20**	**2.00**	**1.90**	**1.80**	**1.60**

1.80	2.00	2.50	2.30	2.20	2.00	1.80
1.60	1.80	2.80	2.60	2.40	2.20	2.00
1.40	1.60	3.10	2.90	2.70	2.50	2.30
1.20	1.40	3.40	3.20	3.00	2.70	2.50
1.00	1.20	3.70	3.40	3.20	3.00	2.70
0.80	1.00	4.00	3.70	3.50	3.20	2.90
0.60	0.80	4.30	4.00	3.70	3.40	3.10
0.40	0.60	4.60	4.30	4.00	3.70	3.40
0.20	0.40	4.90	4.60	4.30	3.90	3.60
0.00	0.20	5.20	4.80	4.50	4.20	3.80

RATE SCHEDULE FOR ACCOUNTS WITH CREDIT BALANCES

When the Credit Reserve Ratio Is:

As Much As	But Less Than	Rate Schedules (%) F	G	H	I
3.00		0.40	0.40	0.30	0.00
2.80	3.00	0.60	0.50	0.40	0.00
2.60	2.80	0.80	0.70	0.60	0.10
2.40	2.60	1.10	1.00	0.90	0.10
2.20	2.40	1.30	1.20	1.00	0.10
2.00	2.20	1.40	1.20	1.00	0.10
1.80	2.00	1.60	1.40	1.20	0.10
1.60	1.80	1.80	1.60	1.40	0.20
1.40	1.60	2.10	1.90	1.70	0.20
1.20	1.40	2.20	2.00	1.70	0.20
1.00	1.20	2.40	2.10	1.80	0.20
0.80	1.00	2.60	2.30	2.00	0.20
0.60	0.80	2.80	2.50	2.20	0.20
0.40	0.60	3.10	2.80	2.40	0.30
0.20	0.40	3.20	2.80	2.40	0.30
0.00	0.20	3.40	3.00	2.60	0.30

(b) For calendar years after 2009, if the conditions of section 2 of this chapter are met, the rate of contributions shall be determined and assigned, with respect to each calendar year, to employers whose accounts have a debit balance and who are therefore eligible according to each employer's debit reserve ratio. Each employer shall be assigned the contribution rate appearing in the applicable schedule A through I on the line opposite the employer's debit reserve ratio as set forth in the rate schedule below:

RATE SCHEDULE FOR ACCOUNTS

WITH DEBIT BALANCES

When the Debit Reserve Ratio Is:

As Much As	But Less Than	Rate Schedules (%) A	B	C	D	E
0.00	1.50	6.75	6.30	5.90	5.40	4.90
1.50	3.00	7.00	6.50	6.10	5.60	5.10
3.00	4.50	7.25	6.70	6.30	5.80	5.30
4.50	6.00	7.50	7.00	6.50	6.00	5.50
6.00	8.00	7.75	7.20	6.70	6.20	5.70
8.00	10.00	8.25	7.70	7.20	6.60	6.00
10.00	12.00	8.75	8.10	7.60	7.00	6.40
12.00	14.00	9.25	8.60	8.00	7.40	6.80
14.00	16.00	9.75	9.10	8.50	7.80	7.10
16.00		10.20	9.50	8.90	8.20	7.40

RATE SCHEDULE FOR ACCOUNTS WITH DEBIT BALANCES

When the Debit Reserve Ratio Is:

As Much As	But Less Than	Rate Schedules (%) F	G	H	I
0.00	1.50	4.40	3.90	3.40	0.40
1.50	3.00	4.60	4.10	3.60	0.40
3.00	4.50	4.80	4.30	3.80	0.40
4.50	6.00	4.90	4.40	3.80	0.40
6.00	8.00	5.10	4.50	3.90	0.40
8.00	10.00	5.40	4.80	4.20	0.50
10.00	12.00	5.80	5.20	4.50	0.50
12.00	14.00	6.10	5.40	4.70	0.50
14.00	16.00	6.40	5.70	5.00	0.50
16.00		6.70	6.00	5.40	5.40

SECTION 16. IC 22-4-11.5-8, AS AMENDED BY P.L.108-2006, SECTION 19, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 8. (a) If the department determines that an employing unit or other person that is not an employer under IC 22-4-7 at the time of the acquisition has acquired an employer's trade or business solely or primarily for the purpose of obtaining a lower employer contribution rate, the employing unit or other person:

(1) may not assume the experience account balance of the predecessor employer for the resources and liabilities of the predecessor employer's experience account that are attributable to the acquisition; and

(2) shall pay the applicable contribution rate as determined under this article.

(b) In determining whether an employing unit or other person acquired a trade or business solely or primarily for the purpose of obtaining a lower employer contribution rate under subsection (a), the department shall consider the following factors:

(1) The cost of acquiring the trade or business.

(2) Whether the employing unit or other person continued the business enterprise of the acquired trade or business, **including whether the predecessor employer is no longer performing the same trade or business and the trade or business is performed by the employing unit to whom the workforce is transferred. An employing unit is considered to continue the business enterprise if any one (1) of the following applies:**

(A) The predecessor employer and the employing unit are corporations that are members of a "controlled group of corporations", as defined in Section 1563 of the Internal Revenue Code (generally parent-subsidiary or brother-sister controlled groups), or would be members if Section 1563(a)(4) and 1563(b) of the Internal Revenue Code did not apply and if the phrase "more than fifty percent (50%)" were substituted for the phrase "at least eighty percent (80%)" wherever it appears in Section 1563(a) of the Internal Revenue Code.

(B) The predecessor employer and the employing unit are entities that are part of an affiliated group, as defined in Section 1504 of the Internal Revenue Code, except that the ownership percentage in Section 1504(a)(2) of the Internal Revenue Code shall be determined using fifty percent (50%) instead of eighty percent (80%).

(C) A predecessor employer and an employing unit are entities that do not issue stock, either fifty percent (50%) or more of the members of one (1) entity's board of directors (or other governing body) are members of the other entity's board of directors (or other governing body), or the holders of fifty percent (50%) or more of the voting power to select these members are concurrently the holders of fifty percent (50%) or more of that power with respect to the other entity.

(D) Fifty percent (50%) or more of one (1) entity's officers are concurrently officers of the other entity.

(E) Thirty percent (30%) or more of one (1) entity's

employees are concurrently employees of the other entity.

(3) The length of time the employing unit or other person continued the business enterprise of the acquired trade or business.

(4) Whether a substantial number of new employees were hired to perform duties unrelated to the business enterprise that the trade or business conducted before the trade or business was acquired.

(5) Whether the predecessor employer and the employing unit are united by factors of control, operation, or use.

(6) Whether a new employing unit is being created solely to obtain a lower contribution rate.

(c) Any written determination made by the department is conclusive and binding on the employing unit or other person, unless the employing unit or other person files a written protest with the department setting forth all reasons for the protest. A protest under this section must be filed not later than fifteen (15) days after the date the department sends the initial determination to the employing unit or other person. The protest shall be heard and determined under this section and IC 22-4-32-1 through IC 22-4-32-15. The department and the employing unit or other person shall be parties to the hearing before the liability administrative law judge and are entitled to receive copies of all pleadings and the decision.

SECTION 17. IC 22-4-12-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. (a) Benefits shall be computed upon the basis of wage credits of an individual in ~~his~~ **the individual's** base period. Wage credits shall be reported by the employer and credited to the individual in the manner prescribed by the board. ~~With respect to initial claims filed for any week beginning on and after July 4, 1959, and before July 7, 1991, the maximum total amount of benefits payable to any eligible individual during any benefit period shall not exceed twenty-six (26) times his weekly benefit, or twenty-five percent (25%) of his wage credits with respect to his base period, whichever is the lesser.~~ With respect to initial claims filed for any week beginning on and after July 7, 1991, the maximum total amount of benefits payable to any eligible individual during any benefit period shall not exceed twenty-six (26) times the individual's weekly benefit, or twenty-eight percent (28%) of the individual's wage credits with respect to the individual's base period, whichever is less. If such maximum total amount of benefits is not a multiple of one dollar ($1), it shall be computed to the next lower multiple of one dollar ($1).

(b) **Except as provided in subsection (d),** the total extended benefit

amount payable to any eligible individual with respect to ~~his~~ **the individual's** applicable benefit period shall be fifty percent (50%) of the total amount of regular benefits (including dependents' allowances) which were payable to ~~him~~ **the individual** under this article in the applicable benefit year, or thirteen (13) times the weekly benefit amount (including dependents' allowances) which was payable to ~~him~~ **the individual** under this article for a week of total unemployment in the applicable benefit year, whichever is the lesser amount.

(c) This subsection applies to individuals who file a disaster unemployment claim or a state unemployment insurance claim after June 1, 1990, and before June 2, 1991, or during another time specified in another state statute. An individual is entitled to thirteen (13) weeks of additional benefits, as originally determined, if:

(1) the individual has established:

(A) a disaster unemployment claim under the Stafford Disaster Relief and Emergency Assistance Act; or

(B) a state unemployment insurance claim as a direct result of a major disaster;

(2) all regular benefits and all disaster unemployment assistance benefits:

(A) have been exhausted by the individual; or

(B) are no longer payable to the individual due to the expiration of the disaster assistance period; and

(3) the individual remains unemployed as a direct result of the disaster.

(d) For purposes of this subsection, "high unemployment period" means a period during which an extended benefit period would be in effect if IC 22-4-2-34(d)(1) were applied by substituting "eight percent (8%)" for "six and five-tenths percent (6.5%)". Effective with respect to weeks beginning in a high unemployment period, the total extended benefit amount payable to an eligible individual with respect to the applicable benefit year is equal to the least of the following amounts:

(1) Eighty percent (80%) of the total amount of regular benefits that were payable to the eligible individual under this article in the applicable benefit year.

(2) Twenty (20) times the weekly benefit amount that was payable to the eligible individual under this article for a week of total unemployment in the applicable benefit year.

(3) Forty-six (46) times the weekly benefit amount that was payable to the eligible individual under this article for a week of total unemployment in the applicable benefit year, reduced

by the regular unemployment compensation benefits paid (or deemed paid) during the benefit year.

This subsection expires on the later of December 5, 2009, or the week ending four (4) weeks before the last week for which federal sharing is authorized by Section 2005(a) of Division B, Title II (the federal Assistance to Unemployed Workers and Struggling Families Act) of the federal American Recovery and Reinvestment Act of 2009 (P.L. 111-5).

SECTION 18. IC 22-4-13-1.1, AS ADDED BY P.L.108-2006, SECTION 24, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 1.1. (a) Notwithstanding any other provisions of this article, if an individual knowingly:

(1) fails to disclose amounts earned during any week in the individual's waiting period, benefit period, or extended benefit period; or

(2) fails to disclose or has falsified any fact;

that would disqualify the individual for benefits, reduce the individual's benefits, or render the individual ineligible for benefits or extended benefits, the individual forfeits any wage credits earned or any benefits or extended benefits that might otherwise be payable to the individual for the period in which the failure to disclose or falsification occurs.

(b) In addition to amounts forfeited under subsection (a), an individual is subject to the following civil penalties for each instance in which the individual knowingly fails to disclose or falsifies any fact that if accurately reported to the department would disqualify the individual for benefits, reduce the individual's benefits, or render the individual ineligible for benefits or extended benefits:

(1) For the first instance, an amount equal to twenty-five percent (25%) of the benefit overpayment.

(2) For the second instance, an amount equal to fifty percent (50%) of the benefit overpayment.

(3) For the third and each subsequent instance, an amount equal to one hundred percent (100%) of the benefit overpayment.

(c) The department's determination under this section constitutes an initial determination under ~~IC 22-4-17-2(c)~~ **IC 22-4-17-2(l)** and is subject to a hearing and review under IC 22-4-17-3 through IC 22-4-17-15.

(d) Interest and civil penalties collected under this chapter shall be deposited in the special employment and training services fund established under IC 22-4-25-1.

SECTION 19. IC 22-4-14-2, AS AMENDED BY P.L.108-2006, SECTION 25, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE

JULY 1, 2009]: Sec. 2. (a) An unemployed individual is eligible to receive benefits with respect to any week only if the individual has:

(1) registered for work at an employment office or branch thereof or other agency designated by the commissioner within the time limits that the department by rule adopts; and

(2) subsequently reported with the frequency and in the manner, either in person or in writing, that the department by rule adopts.

(b) Failure to comply with subsection (a) shall be excused by the commissioner or the commissioner's authorized representative upon a showing of good cause therefor. The department shall ~~by rule~~ waive or alter the requirements of this section as to such types of cases or situations ~~with respect to which the department finds~~ that compliance with such requirements would be oppressive or would be inconsistent with the purposes of this article.

(c) The department shall provide job counseling or training to an individual who remains unemployed for at least four (4) weeks. The manner and duration of the counseling shall be determined by the department.

(d) An individual who is receiving benefits as determined under IC 22-4-15-1(c)(8) is entitled to complete the reporting, counseling, or training that must be conducted in person at a one stop center selected by the individual. The department shall advise an eligible individual that this option is available.

(e) The department may waive the requirements of subsection (a) for a week only when one (1) of the following applies to an individual for that week:

(1) The individual is attending training or retraining approved by the department.

(2) The individual is a job-attached worker with a specific recall date that is not more than sixty (60) days after the individual's separation date.

(3) The individual is using:

(A) a hiring service;

(B) a referral service; or

(C) another job placement service as determined by the department.

(4) Any other situation exists for which the department considers requiring compliance by the individual with this section to be inconsistent with the purposes of this article.

SECTION 20. IC 22-4-14-3, AS AMENDED BY P.L.108-2006, SECTION 26, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 3. (a) An individual who is receiving benefits as

determined under IC 22-4-15-1(c)(8) may restrict the individual's availability because of the individual's need to address the physical, psychological, or legal effects of being a victim of domestic or family violence (as defined in IC 31-9-2-42).

(b) An unemployed individual shall be eligible to receive benefits with respect to any week only if the individual:

(1) is physically and mentally able to work;

(2) is available for work;

(3) is found by the department to be making an effort to secure full-time work; and

(4) participates in reemployment services, such as job search assistance services, if the individual has been determined to be likely to exhaust regular benefits and to need reemployment services under a profiling system established by the department, unless the department determines that:

(A) the individual has completed the reemployment services; or

(B) failure by the individual to participate in or complete the reemployment services is excused by the director under IC 22-4-14-2(b).

The term "effort to secure full-time work" shall be defined by the ~~board~~ **department** through rule which shall take into consideration whether such individual has a reasonable assurance of reemployment and, if so, the length of the prospective period of unemployment, **but must include as a condition the individual's submission of at least one (1) application for work in each week for which the individual is claiming benefits. An individual who submits an application for work online through an Internet web site complies with this condition.** However, if an otherwise eligible individual is unable to work or unavailable for work on any normal work day of the week the individual shall be eligible to receive benefits with respect to such week reduced by one-third (1/3) of the individual's weekly benefit amount for each day of such inability to work or unavailability for work.

(c) For the purpose of this article, unavailability for work of an individual exists in, but is not limited to, any case in which, with respect to any week, it is found:

(1) that such individual is engaged by any unit, agency, or instrumentality of the United States, in charge of public works or assistance through public employment, or any unit, agency, or instrumentality of this state, or any political subdivision thereof, in charge of any public works or assistance through public

employment;

(2) that such individual is in full-time active military service of the United States, or is enrolled in civilian service as a conscientious objector to military service;

(3) that such individual is suspended for misconduct in connection with the individual's work; or

(4) that such individual is in attendance at a regularly established public or private school during the customary hours of the individual's occupation or is in any vacation period intervening between regular school terms during which the individual is a student. However, this subdivision does not apply to any individual who is attending a regularly established school, has been regularly employed and upon becoming unemployed makes an effort to secure full-time work and is available for suitable full-time work with the individual's last employer, or is available for any other full-time employment deemed suitable.

(d) Notwithstanding any other provisions in this section or IC 22-4-15-2, no otherwise eligible individual shall be denied benefits for any week because the individual is in training with the approval of the department, nor shall such individual be denied benefits with respect to any week in which the individual is in training with the approval of the department by reason of the application of the provisions of this section with respect to the availability for work or active search for work or by reason of the application of the provisions of IC 22-4-15-2 relating to failure to apply for, or the refusal to accept, suitable work. The department shall by rule prescribe the conditions under which approval of such training will be granted.

SECTION 21. IC 22-4-14-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 5. ~~(a) As further conditions precedent to the payment of benefits to an individual with respect to benefit periods established on and after July 6, 1980, and before July 7, 1985:~~

~~(1) the individual must have established, after the last day of his last base period, if any, wage credits (as defined in IC 22-4-4-3) and within the meaning of IC 22-4-22-3 equal to at least one and one-quarter (1.25) times the wages paid to him in the calendar quarter in which his wages were highest; and~~

~~(2) the individual must have established wage credits in the last two (2) calendar quarters of his base period in a total amount of not less than nine hundred dollars ($900) and an aggregate amount in the four (4) calendar quarters of his base period of not less than one thousand five hundred dollars ($1,500).~~

~~(b) As further conditions precedent to the payment of benefits to an individual with respect to benefit periods established on and after July 7, 1985, and before January 1, 1992:~~

~~(1) the individual must have established, after the last day of the individual's last base period, if any, wage credits (as defined in IC 22-4-4-3 and within the meaning of IC 22-4-22-3) equal to at least one and one-half (1.5) times the wages paid to the individual in the calendar quarter in which the individual's wages were highest; and~~

~~(2) the individual must have established wage credits in the last two (2) calendar quarters of the individual's base period in a total amount of not less than one thousand five hundred dollars ($1,500) and an aggregate amount in the four (4) calendar quarters of the individual's base period of not less than two thousand five hundred dollars ($2,500).~~

~~(c) As further conditions precedent to the payment of benefits to an individual with respect to benefit periods established on and after January 1, 1992, and before July 1, 1995:~~

~~(1) the individual must have established, after the last day of the individual's last base period, if any, wage credits (as defined in IC 22-4-4-3 and within the meaning of IC 22-4-22-3) equal to at least one and one-quarter (1.25) times the wages paid to the individual in the calendar quarter in which the individual's wages were highest; and~~

~~(2) the individual must have established wage credits in the last two (2) calendar quarters of the individual's base period in a total amount of not less than one thousand five hundred dollars ($1,500) and an aggregate in the four (4) calendar quarters of the individual's base period of not less than two thousand five hundred dollars ($2,500).~~

~~(d)~~ **(a)** As further conditions precedent to the payment of benefits to an individual with respect to benefit periods established on and after July 1, 1995, **but before January 1, 2010:**

(1) the individual must have established, after the last day of the individual's last base period, if any, wage credits (as defined in IC 22-4-4-3 and within the meaning of IC 22-4-22-3) equal to at least one and one-quarter (1.25) times the wages paid to the individual in the calendar quarter in which the individual's wages were highest; and

(2) the individual must have established wage credits in the last two (2) calendar quarters of the individual's base period in a total amount of not less than one thousand six hundred fifty dollars

($1,650) and an aggregate in the four (4) calendar quarters of the individual's base period of not less than two thousand seven hundred fifty dollars ($2,750).

~~(c)~~ **(b)** As a further condition precedent to the payment of benefits to an individual with respect to a benefit year established on and after July 1, 1995, an insured worker may not receive benefits in a benefit year unless after the beginning of the immediately preceding benefit year during which the individual received benefits, the individual performed insured work and earned wages in employment under IC 22-4-8 in an amount not less than the individual's weekly benefit amount established for the individual in the preceding benefit year in each of eight (8) weeks.

(c) As further conditions precedent to the payment of benefits to an individual with respect to benefit periods established on and after January 1, 2010:

(1) the individual must have established, after the last day of the individual's last base period, if any, wage credits (as defined in IC 22-4-4-3 and within the meaning of wages under IC 22-4-22-3) equal to at least one and five-tenths (1.5) times the wages paid to the individual in the calendar quarter in which the individual's wages were highest; and

(2) the individual must have established wage credits in the last two (2) calendar quarters of the individual's base period in a total amount of not less than two thousand five hundred dollars ($2,500) and a total amount in the four (4) calendar quarters of the individual's base period of not less than four thousand two hundred dollars ($4,200).

SECTION 22. IC 22-4-14-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 6. (a) An individual shall be eligible to receive extended benefits with respect to any week of unemployment in the individual's eligibility period only if the commissioner finds that with respect to such week:

(1) the individual is an "exhaustee" (as defined in ~~IC 22-4-2-34(i));~~ **IC 22-4-2-34(j));** and

(2) the individual has satisfied the requirements of this article for the receipt of regular benefits that are applicable to extended benefits, including not being subject to a disqualification for the receipt of benefits.

(b) If an individual has been disqualified from receiving extended benefits for failure to actively engage in seeking work under IC 22-4-15-2(c), the ineligibility shall continue for the week in which the failure occurs and until the individual earns remuneration in

employment equal to or exceeding the weekly benefit amount of the individual's claim in each of four (4) weeks. For purposes of this subsection, an individual shall be treated as actively engaged in seeking work during any week if:

(1) the individual has engaged in a systematic and sustained effort to obtain work during the week; and

(2) the individual provides tangible evidence to the department of workforce development that the individual has engaged in an effort to obtain work during the week.

(c) For claims for extended benefits established after September 25, 1982, notwithstanding any other provision of this article, an individual shall be eligible to receive extended benefits only if the individual's insured wages in the base period with respect to which the individual exhausted all rights to regular compensation were equal to or exceeded one and one-half (1 1/2) times the individual's insured wages in that calendar quarter of the base period in which the individual's insured wages were the highest.

SECTION 23. IC 22-4-15-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 1. (a) With respect to benefit periods established on and after July 6, 1980, an individual who has voluntarily left the individual's most recent employment without good cause in connection with the work or who was discharged from the individual's most recent employment for just cause is ineligible for waiting period or benefit rights for the week in which the disqualifying separation occurred and until the individual has earned remuneration in employment equal to or exceeding the weekly benefit amount of the individual's claim in each of eight (8) weeks. If the qualification amount has not been earned at the expiration of an individual's benefit period, the unearned amount shall be carried forward to an extended benefit period or to the benefit period of a subsequent claim.

(b) When it has been determined that an individual has been separated from employment under disqualifying conditions as outlined in this section, the maximum benefit amount of the individual's current claim, as initially determined, shall be reduced by ~~twenty-five percent (25%). If twenty-five percent (25%) of the maximum benefit amount is not an even dollar amount, the amount of such reduction will be raised to the next higher even dollar amount. The maximum benefit amount may not be reduced by more than twenty-five percent (25%) during any benefit period or extended benefit period.~~ **an amount determined as follows:**

(1) For the first separation from employment under disqualifying conditions, the maximum benefit amount of the

individual's current claim is equal to the result of:

(A) the maximum benefit amount of the individual's current claim, as initially determined; multiplied by

(B) seventy-five percent (75%);

rounded (if not already a multiple of one dollar ($1)) to the next higher dollar.

(2) For the second separation from employment under disqualifying conditions, the maximum benefit amount of the individual's current claim is equal to the result of:

(A) the maximum benefit amount of the individual's current claim determined under subdivision (1); multiplied by

(B) eighty-five percent (85%);

rounded (if not already a multiple of one dollar ($1)) to the next higher dollar.

(3) For the third and any subsequent separation from employment under disqualifying conditions, the maximum benefit amount of the individual's current claim is equal to the result of:

(A) the maximum benefit amount of the individual's current claim determined under subdivision (2); multiplied by

(B) ninety percent (90%);

rounded (if not already a multiple of one dollar ($1)) to the next higher dollar.

(c) The disqualifications provided in this section shall be subject to the following modifications:

(1) An individual shall not be subject to disqualification because of separation from the individual's employment if:

(A) the individual left to accept with another employer previously secured permanent full-time work which offered reasonable expectation of continued covered employment and betterment of wages or working conditions and thereafter was employed on said job;

(B) having been simultaneously employed by two (2) employers, the individual leaves one (1) such employer voluntarily without good cause in connection with the work but remains in employment with the second employer with a reasonable expectation of continued employment; or

(C) the individual left to accept recall made by a base period employer.

(2) An individual whose unemployment is the result of medically

substantiated physical disability and who is involuntarily unemployed after having made reasonable efforts to maintain the employment relationship shall not be subject to disqualification under this section for such separation.

(3) An individual who left work to enter the armed forces of the United States shall not be subject to disqualification under this section for such leaving of work.

(4) An individual whose employment is terminated under the compulsory retirement provision of a collective bargaining agreement to which the employer is a party, or under any other plan, system, or program, public or private, providing for compulsory retirement and who is otherwise eligible shall not be deemed to have left the individual's work voluntarily without good cause in connection with the work. However, if such individual subsequently becomes reemployed and thereafter voluntarily leaves work without good cause in connection with the work, the individual shall be deemed ineligible as outlined in this section.

(5) An otherwise eligible individual shall not be denied benefits for any week because the individual is in training approved under Section 236(a)(1) of the Trade Act of 1974, nor shall the individual be denied benefits by reason of leaving work to enter such training, provided the work left is not suitable employment, or because of the application to any week in training of provisions in this law (or any applicable federal unemployment compensation law), relating to availability for work, active search for work, or refusal to accept work. For purposes of this subdivision, the term "suitable employment" means with respect to an individual, work of a substantially equal or higher skill level than the individual's past adversely affected employment (as defined for purposes of the Trade Act of 1974), and wages for such work at not less than eighty percent (80%) of the individual's average weekly wage as determined for the purposes of the Trade Act of 1974.

(6) An individual is not subject to disqualification because of separation from the individual's employment if:

(A) the employment was outside the individual's labor market;

(B) the individual left to accept previously secured full-time work with an employer in the individual's labor market; and

(C) the individual actually became employed with the employer in the individual's labor market.

(7) An individual who, but for the voluntary separation to move

to another labor market to join a spouse who had moved to that labor market, shall not be disqualified for that voluntary separation, if the individual is otherwise eligible for benefits. Benefits paid to the spouse whose eligibility is established under this subdivision shall not be charged against the employer from whom the spouse voluntarily separated.

(8) An individual shall not be subject to disqualification if the individual voluntarily left employment or was discharged due to circumstances directly caused by domestic or family violence (as defined in IC 31-9-2-42). An individual who may be entitled to benefits based on this modification may apply to the office of the attorney general under IC 5-26.5 to have an address designated by the office of the attorney general to serve as the individual's address for purposes of this article.

As used in this subsection, "labor market" means the area surrounding an individual's permanent residence, outside which the individual cannot reasonably commute on a daily basis. In determining whether an individual can reasonably commute under this subdivision, the department shall consider the nature of the individual's job.

(d) "Discharge for just cause" as used in this section is defined to include but not be limited to:

(1) separation initiated by an employer for falsification of an employment application to obtain employment through subterfuge;

(2) knowing violation of a reasonable and uniformly enforced rule of an employer, **including a rule regarding attendance;**

(3) **if an employer does not have a rule regarding attendance, an individual's** unsatisfactory attendance, if the individual cannot show good cause for absences or tardiness;

(4) damaging the employer's property through willful negligence;

(5) refusing to obey instructions;

(6) reporting to work under the influence of alcohol or drugs or consuming alcohol or drugs on employer's premises during working hours;

(7) conduct endangering safety of self or coworkers; ~~or~~

(8) incarceration in jail following conviction of a misdemeanor or felony by a court of competent jurisdiction; or ~~for~~

(9) any breach of duty in connection with work which is reasonably owed an employer by an employee.

(e) To verify that domestic or family violence has occurred, an individual who applies for benefits under subsection (c)(8) shall provide one (1) of the following:

(1) A report of a law enforcement agency (as defined in IC 10-13-3-10).

(2) A protection order issued under IC 34-26-5.

(3) A foreign protection order (as defined in IC 34-6-2-48.5).

(4) An affidavit from a domestic violence service provider verifying services provided to the individual by the domestic violence service provider.

SECTION 24. IC 22-4-15-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 2. (a) With respect to benefit periods established on and after July 3, 1977, an individual is ineligible for waiting period or benefit rights, or extended benefit rights, if the department finds that, being totally, partially, or part-totally unemployed at the time when the work offer is effective or when the individual is directed to apply for work, the individual fails without good cause:

(1) to apply for available, suitable work when directed by the commissioner, the deputy, or an authorized representative of the department of workforce development or the United States training and employment service;

(2) to accept, at any time after the individual is notified of a separation, suitable work when found for and offered to the individual by the commissioner, the deputy, or an authorized representative of the department of workforce development or the United States training and employment service, or an employment unit; or

(3) to return to the individual's customary self-employment when directed by the commissioner or the deputy.

(b) With respect to benefit periods established on and after July 6, 1980, the ineligibility shall continue for the week in which the failure occurs and until the individual earns remuneration in employment equal to or exceeding the weekly benefit amount of the individual's claim in each of eight (8) weeks. If the qualification amount has not been earned at the expiration of an individual's benefit period, the unearned amount shall be carried forward to an extended benefit period or to the benefit period of a subsequent claim.

(c) With respect to extended benefit periods established on and after July 5, 1981, the ineligibility shall continue for the week in which the failure occurs and until the individual earns remuneration in employment equal to or exceeding the weekly benefit amount of the individual's claim in each of four (4) weeks.

(d) If an individual failed to apply for or accept suitable work as outlined in this section, the maximum benefit amount of the

individual's current claim, as initially determined, shall be reduced by ~~twenty-five percent (25%). If twenty-five percent (25%) of the maximum benefit amount is not an even dollar amount, the amount of such reduction shall be raised to the next higher even dollar amount. The maximum benefit amount of the individual's current claim may not be reduced by more than twenty-five percent (25%) during any benefit period or extended benefit period.~~ **an amount determined as follows:**

(1) For the first failure to apply for or accept suitable work, the maximum benefit amount of the individual's current claim is equal to the result of:

(A) the maximum benefit amount of the individual's current claim, as initially determined; multiplied by

(B) seventy-five percent (75%);

rounded (if not already a multiple of one dollar ($1)) to the next higher dollar.

(2) For the second failure to apply for or accept suitable work, the maximum benefit amount of the individual's current claim is equal to the result of:

(A) the maximum benefit amount of the individual's current claim determined under subdivision (1); multiplied by

(B) eighty-five percent (85%);

rounded (if not already a multiple of one dollar ($1)) to the next higher dollar.

(3) For the third and any subsequent failure to apply for or accept suitable work, the maximum benefit amount of the individual's current claim is equal to the result of:

(A) the maximum benefit amount of the individual's current claim determined under subdivision (2); multiplied by

(B) ninety percent (90%);

rounded (if not already a multiple of one dollar ($1)) to the next higher dollar.

(e) In determining whether or not any such work is suitable for an individual, the department shall consider:

(1) the degree of risk involved to such individual's health, safety, and morals;

(2) the individual's physical fitness and prior training and experience;

(3) the individual's length of unemployment and prospects for securing local work in the individual's customary occupation; and

(4) the distance of the available work from the individual's

residence.

However, work under substantially the same terms and conditions under which the individual was employed by a base-period employer, which is within the individual's prior training and experience and physical capacity to perform, shall be considered to be suitable work unless the claimant has made a bona fide change in residence which makes such offered work unsuitable to the individual because of the distance involved. **During the fifth through the eighth consecutive week of claiming benefits, work is not considered unsuitable solely because the work pays not less than ninety percent (90%) of the individual's prior weekly wage. After eight (8) consecutive weeks of claiming benefits, work is not considered unsuitable solely because the work pays not less than eighty percent (80%) of the individual's prior weekly wage. However, work is not considered suitable under this section if the work pays less than Indiana's minimum wage as determined under IC 22-2-2.** For an individual who is subject to section 1(c)(8) of this chapter, the determination of suitable work for the individual must reasonably accommodate the individual's need to address the physical, psychological, legal, and other effects of domestic or family violence.

(f) Notwithstanding any other provisions of this article, no work shall be considered suitable and benefits shall not be denied under this article to any otherwise eligible individual for refusing to accept new work under any of the following conditions:

(1) If the position offered is vacant due directly to a strike, lockout, or other labor dispute.

(2) If the remuneration, hours, or other conditions of the work offered are substantially less favorable to the individual than those prevailing for similar work in the locality.

(3) If as a condition of being employed the individual would be required to join a company union or to resign from or refrain from joining a bona fide labor organization.

(4) If as a condition of being employed the individual would be required to discontinue training into which the individual had entered with the approval of the department.

(g) Notwithstanding subsection (e), with respect to extended benefit periods established on and after July 5, 1981, "suitable work" means any work which is within an individual's capabilities. However, if the individual furnishes evidence satisfactory to the department that the individual's prospects for obtaining work in the individual's customary occupation within a reasonably short period are good, the determination of whether any work is suitable work shall be made as

provided in subsection (e).

(h) With respect to extended benefit periods established on and after July 5, 1981, no work shall be considered suitable and extended benefits shall not be denied under this article to any otherwise eligible individual for refusing to accept new work under any of the following conditions:

(1) If the gross average weekly remuneration payable to the individual for the position would not exceed the sum of:

(A) the individual's average weekly benefit amount for the individual's benefit year; plus

(B) the amount (if any) of supplemental unemployment compensation benefits (as defined in Section 501(c)(17)(D) of the Internal Revenue Code) payable to the individual for such week.

(2) If the position was not offered to the individual in writing or was not listed with the department of workforce development.

(3) If such failure would not result in a denial of compensation under the provisions of this article to the extent that such provisions are not inconsistent with the applicable federal law.

(4) If the position pays wages less than the higher of:

(A) the minimum wage provided by 29 U.S.C. 206(a)(1) (the Fair Labor Standards Act of 1938), without regard to any exemption; or

(B) the state minimum wage (IC 22-2-2).

(i) The department of workforce development shall refer individuals eligible for extended benefits to any suitable work (as defined in subsection (g)) to which subsection (h) would not apply.

SECTION 25. IC 22-4-15-6.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 6.1. **(a)** Notwithstanding any other provisions of this article, all of the individual's wage credits established prior to the day upon which the individual was discharged for gross misconduct in connection with work are canceled.

(b) As used in this section, "gross misconduct" ~~includes~~ **means any of the following committed in connection with work, as determined by the department by a preponderance of the evidence:**

(1) A felony. ~~or~~

(2) A Class A misdemeanor. ~~committed in connection with work but only if the felony or misdemeanor is admitted by the individual or has resulted in a conviction.~~

(3) Working, or reporting for work, in a state of intoxication caused by the individual's use of alcohol or a controlled

substance (as defined in IC 35-48-1-9).

(4) Battery on another individual while on the employer's property or during working hours.

(5) Theft or embezzlement.

(6) Fraud.

(c) An employer:

(1) has the burden of proving by a preponderance of the evidence that a discharged employee's conduct was gross misconduct; and

(2) may present evidence that the employer filled or maintained the position or job held by the discharged employee after the employee's discharge.

(d) Evidence that a discharged employee's conduct did not result in:

(1) a prosecution for an offense; or

(2) a conviction of an offense;

may be presented.

(e) If evidence is presented that an action or requirement of the employer may have caused the conduct that is the basis for the employee's discharge, the conduct is not gross misconduct under this section.

(f) Lawful conduct not otherwise prohibited by an employer is not gross misconduct under this section.

SECTION 26. IC 22-4-17-1, AS AMENDED BY P.L.108-2006, SECTION 28, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. (a) Claims for benefits shall be made in accordance with rules adopted by the department. The department shall adopt reasonable procedures consistent with the provisions of this article for the expediting of the taking of claims of individuals for benefits in instances of mass layoffs by employers, the purpose of which shall be to minimize the amount of time required for such individuals to file claims upon becoming unemployed as the result of such mass layoffs.

(b) Except when the result would be inconsistent with the other provisions of this article, as provided in the rules of the department, the provisions of this article which apply to claims for, or the payment of, regular benefits shall apply to claims for, and the payment of, extended benefits.

(c) Whenever an extended benefit period is to become effective in this state as a result of a state "on" indicator, or an extended benefit period is to be terminated in this state as a result of a state "off" indicator, the commissioner shall make an appropriate public

announcement.

(d) Computations required by the provisions of ~~IC 22-4-2-34(c)~~ **IC 22-4-2-34(f)** shall be made by the department in accordance with regulations prescribed by the United States Department of Labor.

(e) Each employer shall display and maintain in places readily accessible to all employees posters concerning its regulations and shall make available to each such individual at the time the individual becomes unemployed printed benefit rights information furnished by the department.

SECTION 27. IC 22-4-17-2, AS AMENDED BY P.L.108-2006, SECTION 29, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 2. (a) When an individual files an initial claim, the department shall promptly **follow the procedure described in subsections (b) through (e) to** make a determination of the individual's status as an insured worker in a form prescribed by the department. A written notice of the determination of insured status shall be furnished to the individual promptly. **The notice must include the time by which the employer is required to respond to the department's notice of the individual's claim, and complete information about the rules of evidence and standards of proof that the department will apply to determine the validity of the individual's claim, if the employer disputes the claim.** Each such determination shall be based on and include a written statement showing the amount of wages paid to the individual for insured work by each employer during the individual's base period and shall include a finding as to whether such wages meet the requirements for the individual to be an insured worker, and, if so, the week ending date of the first week of the individual's benefit period, the individual's weekly benefit amount, and the maximum amount of benefits that may be paid to the individual for weeks of unemployment in the individual's benefit period. For the individual who is not insured, the notice shall include the reason for the determination. Unless the individual, within ten (10) days after such determination was mailed to the individual's last known address, or otherwise delivered to the individual, asks a hearing thereon before an administrative law judge, such determination shall be final and benefits shall be paid or denied in accordance therewith.

(b) Not later than January 1, 2010, the department shall establish an unemployment claims compliance center. When an individual files an initial claim after the unemployment claims compliance center is established, the department, before making a determination that the individual is eligible for benefits, shall compare the information provided by the individual making the

claim with information from the separating employer concerning the individual's eligibility for benefits. If the information provided by the individual making the claim does not match the information from the separating employer, the department may not pay the individual benefits and shall refer the individual's claim to the department's unemployment claims compliance center for investigation. The department shall provide a written notice to the individual who filed the claim that the individual's claim is being referred to the unemployment claims compliance center, including the reason for the referral.

(c) After receiving a claim from the department, the unemployment claims compliance center shall contact the separating employer that provided information that does not match information provided by the individual making the claim to obtain information about the claim that is accurate and sufficient for the department to determine whether the individual is eligible for benefits. The center shall also obtain from the employer the name and address of a person to receive without delay notices served on the employer concerning the claim.

(d) Except as provided in subsection (e), the department may not pay the individual benefits under this article as long as the discrepancy between the information provided by the individual and the information provided by the individual's separating employer is unresolved. If the information provided by an individual and the information provided by the individual's separating employer does not match, the department shall notify both the separating employer and the individual that they have forty-eight (48) hours to resolve the discrepancy. If the discrepancy is not resolved at the end of the forty-eighth hour, the department shall use the information provided by the employer to determine the individual's eligibility for benefits.

(e) If the employer does not respond to the inquiry from the unemployment claims compliance center within five (5) days after the date of the inquiry, the center shall report to the department that the employer has not responded, and the department shall use the information provided by the individual to determine the individual's eligibility for benefits.

~~(b)~~ **(f) After the department makes a determination concerning the individual's eligibility for benefits,** the department shall promptly furnish each employer in the base period whose experience or reimbursable account is potentially chargeable with benefits to be paid to such individual with a notice in writing of the employer's benefit

liability. ~~Such~~ **The** notice shall contain the date, the name and Social Security account number of the individual, the ending date of the individual's base period, ~~and~~ the week ending date of the first week of the individual's benefit period, ~~Such~~ **the time by which the employer is required to respond to the notice, and complete information about the rules of evidence and standards of proof that the department will apply to determine the validity of a claim, if an employer disputes the claim. The** notice shall further contain information as to the proportion of benefits chargeable to the employer's experience or reimbursable account in ratio to the earnings of such individual from such employer. Unless the employer within ten (10) days after such notice of benefit liability was mailed to the employer's last known address, or otherwise delivered to the employer, asks a hearing thereon before an administrative law judge, such determination shall be final and benefits paid shall be charged in accordance therewith.

~~(c)~~ **(g)** An employing unit, including an employer, having knowledge of any facts which may affect an individual's eligibility or right to waiting period credits or benefits, shall notify the department of such facts within ten (10) days after the mailing of notice that a former employee has filed an initial or additional claim for benefits on a form prescribed by the department.

(h) If, after the department determines that additional information is necessary to make a determination under this chapter:

(1) the department makes a request in writing for additional information from an employing unit, including an employer, on a form prescribed by the department; and

(2) the employing unit fails to respond within ten (10) days after the date the request is delivered to the employing unit;

the department shall make the determination with the information available.

(i) If:

(1) an employer subsequently obtains a determination by the department that the employee is not eligible for benefits; and

(2) the determination is at least in part based on information that the department requested from the employer under subsection (h), but which the employer failed to provide within ten (10) days after the department's request was delivered to the employer;

the employer's experience account shall be charged an amount equal to fifty percent (50%) of the benefits paid to the employee to

which the employee was not entitled.

(j) If:

(1) the employer's experience account is charged under subsection (i); and

(2) the employee repays all or a part of the benefits on which the charge under subsection (i) is based;

the employer shall receive a credit to the employer's experience account that is equal to the amount of the employee's repayment up to the amount charged to the employer's experience account under subsection (i).

~~(d)~~ **(k)** In addition to the foregoing determination of insured status by the department, the deputy shall, throughout the benefit period, determine the claimant's eligibility with respect to each week for which the claimant claims waiting period credit or benefit rights, the validity of the claimant's claim therefor, and the cause for which the claimant left the claimant's work, or may refer such claim to an administrative law judge who shall make the initial determination with respect thereto in accordance with the procedure in ~~IC 22-4-17-3.~~ **section 3 of this chapter.**

~~(c)~~ **(l)** In cases where the claimant's benefit eligibility or disqualification is disputed, the department shall promptly notify the claimant and the employer or employers directly involved or connected with the issue raised as to the validity of such claim, the eligibility of the claimant for waiting period credit or benefits, or the imposition of a disqualification period or penalty, or the denial thereof, and of the cause for which the claimant left the claimant's work, of such determination and the reasons thereof.

(m) Except as otherwise hereinafter provided in this ~~subsection~~ **section** regarding parties located in Alaska, Hawaii, and Puerto Rico, unless the claimant or such employer, within ten (10) days after ~~such~~ **the** notification **required by subsection (k)** was mailed to the claimant's or the employer's last known address or otherwise delivered to the claimant or the employer, asks **for** a hearing before an administrative law judge thereon, such decision shall be final and benefits shall be paid or denied in accordance therewith. ~~With respect to~~

(n) For a notice of disputed administrative determination or decision mailed or otherwise delivered to the claimant or employer either of whom is located in Alaska, Hawaii, or Puerto Rico, unless ~~such~~ **the** claimant or employer, within fifteen (15) days after ~~such~~ **the** notification **required by subsection (k)** was mailed to the claimant's or employer's last known address or otherwise delivered to the claimant

or employer, asks **for** a hearing before an administrative law judge thereon, such decision shall be final and benefits shall be paid or denied in accordance therewith.

(o) If ~~such~~ **a claimant or an employer requests a** hearing ~~is desired,~~ **under subsection (m) or (n),** the request therefor shall be filed with the department in writing within the prescribed periods as above set forth in this ~~subsection~~ **section** and shall be in such form as the department may prescribe. In the event a hearing is requested by an employer or the department after it has been administratively determined that benefits should be allowed to a claimant, entitled benefits shall continue to be paid to said claimant unless said administrative determination has been reversed by a due process hearing. Benefits with respect to any week not in dispute shall be paid promptly regardless of any appeal.

~~(f)~~ **(p)** A person may not participate on behalf of the department in any case in which the person is an interested party.

~~(g)~~ **(q)** Solely on the ground of obvious administrative error appearing on the face of an original determination, and within the benefit year of the affected claims, the commissioner, or a representative authorized by the commissioner to act in the commissioner's behalf, may reconsider and direct the deputy to revise the original determination so as to correct the obvious error appearing therein. Time for filing an appeal and requesting a hearing before an administrative law judge regarding the determinations handed down pursuant to this subsection shall begin on the date following the date of revision of the original determination and shall be filed with the commissioner in writing within the prescribed periods as above set forth in subsection ~~(c).~~ **(g).**

~~(h)~~ **(r)** Notice to the employer and the claimant that the determination of the department is final if a hearing is not requested shall be prominently displayed on the notice of the determination which is sent to the employer and the claimant.

~~(i)~~ **(s)** If an allegation of the applicability of IC 22-4-15-1(c)(8) is made by the individual at the time of the claim for benefits, the department shall not notify the employer of the claimant's current address or physical location.

SECTION 28. IC 22-4-17-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 3. **(a)** Unless such request for hearing is withdrawn, an administrative law judge, after **providing the notice required under section 6 of this chapter and** affording the parties a reasonable opportunity for fair hearing, shall affirm, modify, or reverse the findings of fact and decision of the

deputy.

(b) The parties shall be duly notified of ~~such~~ **the** decision **made under subsection (a)** and the reasons therefor, which shall be deemed to be the final decision of the review board, unless within fifteen (15) days after the date of notification or mailing of such decision, an appeal is taken by the commissioner or by any party adversely affected by such decision to the review board.

SECTION 29. IC 22-4-17-4, AS AMENDED BY P.L.108-2006, SECTION 30, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 4. **(a)** The department shall employ one (1) or more administrative law judges to hear and decide disputed claims. Administrative law judges employed under this section are not subject to IC 4-21.5 or any other statute regulating administrative law judges, unless specifically provided.

(b) The department shall provide at least annually to all administrative law judges, review board members, and other individuals who adjudicate claims training concerning:

(1) unemployment compensation law;

(2) rules for the conduct of hearings and appeals; and

(3) rules of conduct for administrative law judges, review board members, and other individuals who adjudicate claims during a hearing or other adjudicative process.

(c) The department regularly shall monitor the hearings and decisions of its administrative law judges, review board members, and other individuals who adjudicate claims to ensure that the hearings and decisions strictly comply with the law and the rules described in subsection (b).

(d) An individual who does not strictly comply with the law and the rules described in subsection (b), including the rules of conduct for administrative law judges, review board members, and other individuals who adjudicate claims during a hearing or other adjudicative process, is subject to disciplinary action by the department, up to and including suspension from or termination of employment.

SECTION 30. IC 22-4-17-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 5. (a) The governor shall appoint a review board composed of three (3) members, not more than two (2) of whom shall be members of the same political party, with salaries to be fixed by the governor. The review board shall consist of the chairman and the two (2) members who shall serve for terms of three (3) years. At least one (1) member must be admitted to the practice of law in Indiana.

(b) Any claim pending before an administrative law judge, and all proceedings therein, may be transferred to and determined by the review board upon its own motion, at any time before the administrative law judge announces ~~his~~ **a** decision. Any claim pending before either an administrative law judge or the review board may be transferred to the board for determination at the direction of the board. If the review board considers it advisable to procure additional evidence, it may direct the taking of additional evidence within a time period it shall fix. **An employer that is a party to a claim transferred to the review board or the board under this subsection is entitled to receive notice in accordance with section 6 of this chapter of the transfer or any other action to be taken under this section before a determination is made or other action concerning the claim is taken.**

(c) Any proceeding so removed to the review board shall be heard by a quorum of the review board in accordance with the requirements of section 3 of this chapter. The review board shall notify the parties to any claim of its decision, together with its reasons for the decision.

(d) Members of the review board, when acting as administrative law judges, are subject to section 15 of this chapter.

(e) The review board may on the board's own motion affirm, modify, set aside, remand, or reverse the findings, conclusions, or orders of an administrative law judge on the basis of any of the following:

(1) Evidence previously submitted to the administrative law judge.

(2) The record of the proceeding after the taking of additional evidence as directed by the review board.

(3) A procedural error by the administrative law judge.

SECTION 31. IC 22-4-17-6, AS AMENDED BY P.L.108-2006, SECTION 31, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 6. **(a)** The manner in which disputed claims shall be presented and the conduct of hearings and appeals, **including the conduct of administrative law judges, review board members, and other individuals who adjudicate claims during a hearing or other adjudicative process,** shall be in accordance with rules adopted by the department for determining the rights of the parties, whether or not the rules conform to common law or statutory rules of evidence and other technical rules of procedure.

(b) A full and complete record shall be kept of all proceedings in connection with a disputed claim. The testimony at any hearing upon a disputed claim need not be transcribed unless the disputed claim is further appealed.

(c) Each party to a hearing before an administrative law judge held under section 3 of this chapter shall be mailed a notice of the hearing at least ten (10) days before the date of the hearing specifying the **date,** place, and time of the hearing, ~~and~~ identifying the issues to be decided, **and providing complete information about the rules of evidence and standards of proof that the administrative law judge will use to determine the validity of the claim.**

(d) If a hearing so scheduled has not commenced within at least sixty (60) minutes of the time for which it was scheduled, then a party involved in the hearing may request a continuance of the hearing. Upon submission of a request for continuance of a hearing under circumstances provided in this section, the continuance shall be granted unless the party requesting the continuance was responsible for the delay in the commencement of the hearing as originally scheduled. In the latter instance, the continuance shall be discretionary with the administrative law judge. Testimony or other evidence introduced by a party at a hearing before an administrative law judge or the review board that another party to the hearing:

(1) is not prepared to meet; and

(2) by ordinary prudence could not be expected to have anticipated;

shall be good cause for continuance of the hearing and upon motion such continuance shall be granted.

SECTION 32. IC 22-4-18-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 4. The department of workforce development established under IC 22-4.1-2-1 shall administer job training and placement services ~~the skills 2016 training program established by IC 22-4-10.5-2,~~ and unemployment insurance.

SECTION 33. IC 22-4-19-6, AS AMENDED BY P.L.108-2006, SECTION 39, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 6. (a) Each employing unit shall keep true and accurate records containing information the department considers necessary. These records are:

(1) open to inspection; and

(2) subject to being copied;

by an authorized representative of the department at any reasonable time and as often as may be necessary. The department, the review board, or an administrative law judge may require from any employing unit any verified or unverified report, with respect to persons employed by it, which is considered necessary for the effective administration of this article.

(b) Except as provided in subsections (d) and (f), information

obtained or obtained from any person in the administration of this article and the records of the department relating to the unemployment tax ~~the skills 2016 assessment under IC 22-4-10.5-3,~~ or the payment of benefits is confidential and may not be published or be open to public inspection in any manner revealing the individual's or the employing unit's identity, except in obedience to an order of a court or as provided in this section.

(c) A claimant **or an employer** at a hearing before an administrative law judge or the review board shall be supplied with information from the records referred to in this section to the extent necessary for the proper presentation of the subject matter of the appearance. The department may make the information necessary for a proper presentation of a subject matter before an administrative law judge or the review board available to an agency of the United States or an Indiana state agency.

(d) The department may release the following information:

(1) Summary statistical data may be released to the public.

(2) Employer specific information known as ES 202 data and data resulting from enhancements made through the business establishment list improvement project may be released to the Indiana economic development corporation only for the following purposes:

(A) The purpose of conducting a survey.

(B) The purpose of aiding the officers or employees of the Indiana economic development corporation in providing economic development assistance through program development, research, or other methods.

(C) Other purposes consistent with the goals of the Indiana economic development corporation and not inconsistent with those of the department.

(3) Employer specific information known as ES 202 data and data resulting from enhancements made through the business establishment list improvement project may be released to the budget agency only for aiding the employees of the budget agency in forecasting tax revenues.

(4) Information obtained from any person in the administration of this article and the records of the department relating to the unemployment tax or the payment of benefits for use by the following governmental entities:

(A) department of state revenue; or

(B) state or local law enforcement agencies;

only if there is an agreement that the information will be kept

confidential and used for legitimate governmental purposes.

(e) The department may make information available under subsection (d)(1), (d)(2), or (d)(3) only:

(1) if:

(A) data provided in summary form cannot be used to identify information relating to a specific employer or specific employee; or

(B) there is an agreement that the employer specific information released to the Indiana economic development corporation or the budget agency will be treated as confidential and will be released only in summary form that cannot be used to identify information relating to a specific employer or a specific employee; and

(2) after the cost of making the information available to the person requesting the information is paid under IC 5-14-3.

(f) In addition to the confidentiality provisions of subsection (b), the fact that a claim has been made under IC 22-4-15-1(c)(8) and any information furnished by the claimant or an agent to the department to verify a claim of domestic or family violence are confidential. Information concerning the claimant's current address or physical location shall not be disclosed to the employer or any other person. Disclosure is subject to the following additional restrictions:

(1) The claimant must be notified before any release of information.

(2) Any disclosure is subject to redaction of unnecessary identifying information, including the claimant's address.

(g) An employee:

(1) of the department who recklessly violates subsection (a), (c), (d), (e), or (f); or

(2) of any governmental entity listed in subsection (d)(4) who recklessly violates subsection (d)(4);

commits a Class B misdemeanor.

(h) An employee of the Indiana economic development corporation or the budget agency who violates subsection (d) or (e) commits a Class B misdemeanor.

(i) An employer or agent of an employer that becomes aware that a claim has been made under IC 22-4-15-1(c)(8) shall maintain that information as confidential.

(j) The department may charge a reasonable processing fee not to exceed two dollars ($2) for each record that provides information about an individual's last known employer released in compliance with a court order under subsection (b).

SECTION 34. IC 22-4-19-7, AS AMENDED BY P.L.108-2006, SECTION 40, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 7. In any case where an employing unit, or any officer, member, or agent thereof or any other person having possession of the records thereof, shall fail or refuse upon demand by the board, the department, the review board, or an administrative law judge, or the duly authorized representative of any of them, to produce or permit the examination or copying of any book, paper, account, record, or other data pertaining to payrolls or employment or ownership of interests or stock in any employing unit, or bearing upon the correctness of any contribution report, ~~or the skills 2016 training assessment under IC 22-4-10.5-3,~~ or for the purpose of making a report as required by this article where none has been made, then and in that event the board, the department, the review board, or the administrative law judge, or the duly authorized representative of any of them, may by issuance of a subpoena require the attendance of such employing unit, or any officer, member, or agent thereof or any other person having possession of the records thereof, and take testimony with respect to any such matter and may require any such person to produce any books or records specified in such subpoena.

SECTION 35. IC 22-4-20-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 1. (a) Whenever the commissioner shall consider any account or claim for contributions ~~or skills 2016 training assessments under IC 22-4-10.5-3, or both,~~ against an employer, and any penalty or interest due thereon, or any part thereof, to be uncollectible, written notification containing appropriate information shall be furnished to the attorney general by the commissioner setting forth the reasons therefor and the extent to which collection proceedings have been taken. The attorney general may review such notice and may undertake additional investigation as to the facts relating thereto, and shall thereupon certify to the commissioner an opinion as to the collectibility of such account or claim. If the attorney general consents to the cancellation of such claim for delinquent contributions, ~~or skills 2016 training assessments, or both,~~ and any interest or penalty due thereon, the board may then cancel all or any part of such claim.

(b) In addition to the procedure for cancellation of claims for delinquent contributions ~~or skills 2016 training assessments, or both,~~ set out in subsection (a), the board may cancel all or any part of a claim for delinquent contributions ~~or skills 2016 training assessments, or both,~~ against an employer if all of the following conditions are met:

(1) The employer's account has been delinquent for at least seven

(7) years.

(2) The commissioner has determined that the account is uncollectible and has recommended that the board cancel the claim for delinquent contributions. ~~or skills 2016 training assessments, or both.~~

(c) When any such claim or any part thereof is cancelled by the board, there shall be placed in the files and records of the department, in the appropriate place for the same, a statement of the amount of contributions, ~~skills 2016 training assessments, and~~ any interest or penalty due thereon, and the action of the board taken with relation thereto, together with the reasons therefor.

SECTION 36. IC 22-4-25-1, AS AMENDED BY P.L.138-2008, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 1. (a) There is created in the state treasury a special fund to be known as the special employment and training services fund. All interest on delinquent contributions and penalties collected under this article, together with any voluntary contributions tendered as a contribution to this fund, shall be paid into this fund. The money shall not be expended or available for expenditure in any manner which would permit their substitution for (or a corresponding reduction in) federal funds which would in the absence of said money be available to finance expenditures for the administration of this article, but nothing in this section shall prevent said money from being used as a revolving fund to cover expenditures necessary and proper under the law for which federal funds have been duly requested but not yet received, subject to the charging of such expenditures against such funds when received. The money in this fund shall be used by the board for the payment of refunds of interest on delinquent contributions and penalties so collected, for the payment of costs of administration which are found not to have been properly and validly chargeable against federal grants or other funds received for or in the employment and training services administration fund, on and after July 1, 1945. Such money shall be available either to satisfy the obligations incurred by the board directly, or by transfer by the board of the required amount from the special employment and training services fund to the employment and training services administration fund. The board shall order the transfer of such funds or the payment of any such obligation or expenditure and such funds shall be paid by the treasurer of state on requisition drawn by the board directing the auditor of state to issue the auditor's warrant therefor. Any such warrant shall be drawn by the state auditor based upon vouchers certified by the board or the commissioner. The money in this fund is hereby specifically made

available to replace within a reasonable time any money received by this state pursuant to 42 U.S.C. 502, as amended, which, because of any action or contingency, has been lost or has been expended for purposes other than or in amounts in excess of those approved by the bureau of employment security. The money in this fund shall be continuously available to the board for expenditures in accordance with the provisions of this section and shall not lapse at any time or be transferred to any other fund, except as provided in this article. Nothing in this section shall be construed to limit, alter, or amend the liability of the state assumed and created by IC 22-4-28, or to change the procedure prescribed in IC 22-4-28 for the satisfaction of such liability, except to the extent that such liability may be satisfied by and out of the funds of such special employment and training services fund created by this section.

(b) Whenever the balance in the special employment and training services fund ~~is deemed excessive by the board,~~ **exceeds eight million five hundred thousand dollars ($8,500,000),** the board shall order payment **of the amount that exceeds eight million five hundred thousand dollars ($8,500,000)** into the unemployment insurance benefit fund. ~~of the amount of the special employment and training services fund deemed to be excessive.~~

(c) Subject to the approval of the board and the availability of funds, on July 1, 2008, and each subsequent July 1, the commissioner shall release:

(1) one million dollars ($1,000,000) to the state educational institution established under IC 21-25-2-1 for training provided to participants in apprenticeship programs approved by the United States Department of Labor, Bureau of Apprenticeship and Training;

(2) four million dollars ($4,000,000) to the state educational institution instituted and incorporated under IC 21-22-2-1 for training provided to participants in joint labor and management apprenticeship programs approved by the United States Department of Labor, Bureau of Apprenticeship and Training; and

(3) two hundred fifty thousand dollars ($250,000) for journeyman upgrade training to each of the state educational institutions described in subdivisions (1) and (2).

Each state educational institution described in this subsection is entitled to keep ten percent (10%) of the funds released under this subsection for the payment of costs of administering the funds. On each June 30 following the release of the funds, any funds released under

this subsection not used by the state educational institutions under this subsection shall be returned to the special employment and training services fund.

SECTION 37. IC 22-4-29-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 2. In addition to all other powers granted to the commissioner by this article, the commissioner or the commissioner's authorized representatives shall have the power to make assessments against any employing unit which fails to pay contributions, interest, ~~skills 2016 training assessments under IC 22-4-10.5-3,~~ or penalties as required by this article, or for additional contributions ~~and skills 2016 training assessments~~ due and unpaid, which assessment is considered prima facie correct. Such assessments shall consist of contributions ~~skills 2016 training assessments under IC 22-4-10.5-3,~~ and any interest or penalties which may be due by reason of section 1 of this chapter. ~~or the skills 2016 training assessment and interest due under IC 22-4-10.5.~~ Such assessment must be made not later than four (4) calendar years subsequent to the date that said contributions, ~~skills 2016 training assessments,~~ interest, or penalties would have become due, except that this limitation shall not apply to any contributions, ~~skills 2016 training assessments,~~ interest, or penalties which should have been paid with respect to any incorrect report filed with the department which report was known or should have been known to be incorrect by the employing unit.

SECTION 38. IC 22-4-31-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 3. No injunction to restrain or delay the collection of any contributions ~~skills 2016 training assessments under IC 22-4-10.5-3,~~ or other amounts claimed to be due under the provisions of this article shall be issued by any court.

SECTION 39. IC 22-4-32-16 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 16. In the event of any distribution of any employer's assets pursuant to an order of any court under the laws of this state including but not necessarily limited to any receivership, assignment for benefit of creditors, adjudicated insolvency, composition or similar proceeding, contributions ~~and skills 2016 training assessments under IC 22-4-10.5-3~~ then or thereafter due shall be paid in full prior to all other claims except claims for remuneration.

SECTION 40. IC 22-4-32-17 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 17. No final report or act of any executor, administrator, receiver, other fiduciary, or other officer engaged in administering the assets of any employer subject to

the payment of contributions under this article and acting under the authority and supervision of any court shall be allowed or approved by the court unless such report or account shows and the court finds that all contributions, interest, ~~skills 2016 training assessments under IC 22-4-10.5-3,~~ and penalties imposed by this article have been paid pursuant to this section, and that all contributions ~~and skills 2016 training assessments~~ which may become due under this article are secured by bond or deposit.

SECTION 41. IC 22-4-32-19, AS AMENDED BY P.L.108-2006, SECTION 60, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 19. (a) The department may grant an application for adjustment or refund, make an adjustment or refund, or set off a refund as follows:

(1) Not later than four (4) years after the date upon which any contributions ~~skills 2016 training assessments under IC 22-4-10.5-3,~~ or interest thereon were paid, an employing unit which has paid such contributions ~~skills 2016 training assessments,~~ or interest thereon may make application for an adjustment or a refund of such contributions ~~skills 2016 training assessments,~~ or an adjustment thereon in connection with subsequent contribution payments. ~~or skills 2016 training assessments.~~ The department shall thereupon determine whether or not such contribution ~~or skills 2016 training assessment,~~ or interest or any portion thereof, was erroneously paid or wrongfully assessed.

(2) The department may grant such application in whole or in part and may make an adjustment, without interest, in connection with subsequent contribution payments ~~or skills 2016 training assessments,~~ or refund such amounts, without interest, from the fund. Adjustments or refund may be made on the commissioner's own initiative.

(3) Any adjustments or refunds of interest or penalties collected for contributions due under IC 22-4-10-1 shall be charged to and paid from the special employment and training services fund created by IC 22-4-25. ~~Any adjustments or refunds of interest or penalties collected for skills 2016 training assessments due under IC 22-4-10.5-3 shall be charged to and paid from the skills 2016 training fund established by IC 5-28-27-3.~~

(4) The department may set off any refund available to an employer under this section against any delinquent contributions, payments in lieu of contributions, ~~skills 2016 training assessments,~~ and the interest and penalties, if any, related to the

delinquent payments and assessments.

(b) Any decision by the department to:

(1) grant an application for adjustment or refund;

(2) make an adjustment or refund on its own initiative; or

(3) set off a refund;

constitutes the initial determination referred to in section 4 of this chapter and is subject to hearing and review as provided in sections 1 through 15 of this chapter.

(c) If any assessment has become final by virtue of a decision of a liability administrative law judge with the result that no proceeding for judicial review as provided in this article was instituted, no refund or adjustment with respect to such assessment shall be made.

SECTION 42. IC 22-4-32-20 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 20. The contributions, penalties, ~~skills 2016 training assessments under IC 22-4-10.5-3,~~ and interest due from any employer under the provisions of this article from the time they shall be due shall be a personal liability of the employer to and for the benefit of the fund and the employment and training services administration fund.

SECTION 43. IC 22-4-32-23 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 23. (a) As used in this section:

(1) "Dissolution" refers to dissolution of a corporation under IC 23-1-45 through IC 23-1-48 **or dissolution under Indiana law of an association, a joint venture, an estate, a partnership, a limited liability partnership, a limited liability company, a joint stock company, or an insurance company (referred to as a "noncorporate entity" in this section).**

(2) "Liquidation" means the operation or act of winding up a corporation's **or entity's** affairs, when normal business activities have ceased, by settling its debts and realizing upon and distributing its assets.

(3) "Withdrawal" refers to the withdrawal of a foreign corporation from Indiana under IC 23-1-50.

(b) The officers and directors of a corporation effecting dissolution, liquidation, or withdrawal **or the appropriate individuals of a noncorporate entity** shall do the following:

(1) File all necessary documents with the department in a timely manner as required by this article.

(2) Make all payments of contributions ~~and skills 2016 training assessments under IC 22-4-10.5~~ to the department in a timely manner as required by this article.

(3) File with the department a form of notification within thirty (30) days of the adoption of a resolution or plan. The form of notification shall be prescribed by the department and may require information concerning:

(A) the corporation's **or noncorporate entity's** assets;

(B) the corporation's **or noncorporate entity's** liabilities;

(C) details of the plan or resolution;

(D) the names and addresses of corporate officers, directors, and shareholders **or the noncorporate entity's owners, members, or trustees;**

(E) a copy of the minutes of the shareholders' meeting **or the noncorporate entity's meeting** at which the plan or resolution was formally adopted; and

(F) such other information as the board may require.

The commissioner may accept, in lieu of the department's form of notification, a copy of Form 966 that the corporation filed with the Internal Revenue Service.

(c) Unless a clearance is issued under subsection (g), for a period of one (1) year following the filing of the form of notification with the department, the corporate officers and directors **of a corporation and the chief executive of a noncorporate entity** remain personally liable, subject to IC 23-1-35-1(e), for any acts or omissions that result in the distribution of corporate **or noncorporate entity** assets in violation of the interests of the state. An officer or director **of a corporation or a chief executive of a noncorporate entity** held liable for an unlawful distribution under this subsection is entitled to contribution:

(1) from every other director who voted for or assented to the distribution, subject to IC 23-1-35-1(e); and

(2) from each shareholder, **owner, member, or trustee** for the amount the shareholder, **owner, member, or trustee** accepted.

(d) The corporation's officers' and directors' **and the noncorporate entity's chief executive's** personal liability includes all contributions, ~~skills 2016 training assessments,~~ penalties, interest, and fees associated with the collection of the liability due the department. In addition to the penalties provided elsewhere in this article, a penalty of up to thirty percent (30%) of the unpaid contributions and skills 2016 training assessments may be imposed on the corporate officers and directors **and the noncorporate entity's chief executive** for failure to take reasonable steps to set aside corporate assets to meet the liability due the department.

(e) If the department fails to begin a collection action against a corporate officer or director **or a noncorporate entity's chief**

executive within one (1) year after the filing of a completed form of notification with the department, the personal liability of the corporate officer or director **or noncorporate entity's chief executive** expires. The filing of a substantially blank form of notification or a form containing misrepresentation of material facts does not constitute filing a form of notification for the purpose of determining the period of personal liability of the officers and directors of the corporation **or the chief executive of the noncorporate entity.**

(f) In addition to the remedies contained in this section, the department is entitled to pursue corporate assets that have been distributed to shareholders **or noncorporate entity assets that have been distributed to owners, members, or beneficiaries,** in violation of the interests of the state. The election to pursue one (1) remedy does not foreclose the state's option to pursue other legal remedies.

(g) The department may issue a clearance to a corporation **or noncorporate entity** effecting dissolution, liquidation, or withdrawal if:

(1) the:

(A) officers and directors of the corporation have; **or**

(B) chief executive of the noncorporate entity has;

met the requirements of subsection (b); and

(2) request for the clearance is made in writing by the officers and directors of the corporation **or chief executive of the noncorporate entity** within thirty (30) days after the filing of the form of notification with the department.

(h) The issuance of a clearance by the department under subsection (g) releases the officers and directors **of a corporation and the chief executive of a noncorporate entity** from personal liability under this section.

SECTION 44. IC 22-4-32-24, AS AMENDED BY P.L.108-2006, SECTION 61, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 24. (a) This section applies to notices given under sections 4, 7, 8, and 9 of this chapter.

(b) As used in this section, "notices" includes mailings pertaining to:

(1) the assessment of contributions, ~~skills 2016 training assessments under IC 22-4-10.5-3,~~ penalties, and interest;

(2) the transfer of charges from an employer's account;

(3) successorships and related matters arising from successorships;

(4) claims for refunds and adjustments;

(5) violations under IC 22-4-11.5;

(6) decisions; and

(7) notices of intention to appeal or seek judicial review.

(c) If a notice under this chapter is served through the United States Postal Service, three (3) days must be added to a period that commences upon service of that notice.

(d) The filing of a document with the unemployment insurance appeals division or review board is complete on the earliest of the following dates that apply to the filing:

(1) The date on which the document is delivered to the unemployment insurance appeals division or review board.

(2) The date of the postmark on the envelope containing the document if the document is mailed to the unemployment insurance appeals division or review board by the United States Postal Service.

(3) The date on which the document is deposited with a private carrier, as shown by a receipt issued by the carrier, if the document is sent to the unemployment insurance appeals division or review board by a private carrier.

SECTION 45. IC 22-4-33-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 1. Except as provided in IC 22-4-39, any agreement by an individual to waive, release or commute ~~his~~ **the individual's** rights to benefits or any other rights under this article is void. Any agreement by any individual in the employ of any person or concern to pay all or any portion of an employer's contributions required under this article ~~or skills 2016 training assessments under IC 22-4-10.5-3~~ from the employer is void. No employer may make or require or accept any deduction from the remuneration of individuals in ~~his~~ **the employer's** employ to finance the employer's contributions ~~or skills 2016 training assessments under IC 22-4-10.5-3~~ required from ~~him,~~ **the employer,** or require or accept any waiver by any individual in ~~his~~ **the employer's** employ of any right under this article.

SECTION 46. IC 22-4-37-3, AS AMENDED BY P.L.108-2006, SECTION 65, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 3. (a) Should:

(1) the Congress of the United States amend, repeal, or authorize the implementation of a demonstration project under 29 U.S.C. 49 et seq., 26 U.S.C. 3301 through 3311, 42 U.S.C. 301 et seq., or 26 U.S.C. 3101 through 3504, or any statute or statutes supplemental to or in lieu thereof or any part or parts of said statutes, or should any or all of said statutes or any part or parts thereof be held invalid, to the end and with such effect that appropriations of funds by the said Congress and grants thereof to the state for the

payment of costs of administration of the department are or no longer shall be available for such purposes;

(2) the primary responsibility for the administration of 26 U.S.C. 3301 through 26 U.S.C. 3311 be transferred to the state as a demonstration project authorized by Congress; or

(3) employers in Indiana subject to the payment of tax under 26 U.S.C. 3301 through 3311 be granted full credit upon such tax for contributions or taxes paid to the department;

then, beginning with the effective date of such change in liability for payment of such federal tax and for each year thereafter, the normal contribution rate under this article shall be established by the department and may not exceed three and one-half percent (3.5%) per year of each employer's payroll subject to contribution. With respect to each employer having a rate of contribution for such year pursuant to terms of IC 22-4-11-2(b)(2)(A), IC 22-4-11-2(b)(2)(B), IC 22-4-11-2(c), IC 22-4-11-3, IC 22-4-11-3.3, **IC 22-4-11-3.5,** and IC 22-4-11.5, to the rate of contribution, as determined for such year in which such change occurs, shall be added not more than eight-tenths percent (0.8%) as prescribed by the department.

(b) The amount of the excess of tax for which such employer is or may become liable by reason of this section over the amount which such employer would pay or become liable for except for the provisions of this section, together with any interest or earnings thereon, shall be paid and transferred into the employment and training services administration fund to be disbursed and paid out under the same conditions and for the same purposes as is other money provided to be paid into such fund. If the commissioner shall determine that as of January 1 of any year there is an excess in said fund over the money and funds required to be disbursed therefrom for the purposes thereof for such year, then and in such cases an amount equal to such excess, as determined by the commissioner, shall be transferred to and become part of the unemployment insurance benefit fund, and such funds shall be deemed to be and are hereby appropriated for the purposes set out in this section.

SECTION 47. IC 22-4-43 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]:

Chapter 43. Hoosier Workers First Training Program

Sec. 1. As used in this chapter, "fund" refers to the Hoosier workers first training fund established by section 5 of this chapter.

Sec. 2. The Hoosier workers first training program is established for the following purposes:

(1) To improve manufacturing productivity levels in Indiana.

(2) To enable firms to become competitive by making workers more productive through training.

(3) To create a competitive economy by creating and retaining jobs.

(4) To encourage the increased training necessary because of an aging workforce.

(5) To avoid potential payment of unemployment compensation by providing workers with enhanced job skills.

Sec. 3. The department shall administer the Hoosier workers first training program.

Sec. 4. For each state fiscal year, the department shall prepare an annual report on the use of the fund as a part of the report required by IC 22-4-18-7.

Sec. 5. (a) The Hoosier workers first training fund is established to do the following:

(1) Administer the costs of the Hoosier workers first training program established by section 2 of this chapter.

(2) Undertake any program or activity that furthers the purposes of this chapter.

(b) The money in the fund shall be allocated to employers or consortiums for worker training grants that enable workers who reside in Indiana to obtain recognizable credentials or certifications and transferable employment skills that improve employer competitiveness.

(c) Special consideration shall be given to Ivy Tech Community College (as defined in IC 21-7-13-22) to be the provider of the training funded under this chapter whenever the state educational institution:

(1) meets the identified training needs of an employer or a consortium with an existing credentialing or certification program; and

(2) is the most cost effective provider.

(d) For the worker training grants described in subsection (b), the department shall do the following:

(1) Provide grant applications to interested employers and consortiums.

(2) Accept completed applications for the grants.

(3) Obtain all information necessary or appropriate to determine whether an applicant qualifies for a grant, including information concerning:

(A) the applicant;

(B) the training to be offered;

(C) the training provider; and

(D) the workers to be trained.

(4) Allocate the money in the fund in accordance with subsections (b) and (c).

(e) The treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public money may be invested.

(f) Money in the fund at the end of a state fiscal year does not revert to the state general fund.

(g) The fund consists of the following:

(1) Appropriations from the general assembly.

(2) Earnings acquired through the use of money belonging to the fund.

(3) Money deposited in the fund from any other source.

(h) Any balance in the fund does not lapse but is available continuously to the department for expenditures for the program established by this chapter.

SECTION 48. THE FOLLOWING ARE REPEALED [EFFECTIVE JULY 1, 2009]: IC 5-28-27; IC 22-4-10.5; IC 22-4-12-2.1; IC 22-4-17-10.

SECTION 49. [EFFECTIVE JULY 1, 2009] **(a) As used in this SECTION, "committee" refers to the unemployment insurance oversight committee established by IC 2-5-30-3, as added by this act.**

(b) As used in this SECTION, "department" refers to the department of workforce development established by IC 22-4.1-2-1.

(c) As used in this SECTION, "fund" refers to the unemployment insurance benefit fund established under IC 22-4-26.

(d) The commissioner of the department shall do the following, not later than ninety (90) days after the earliest effective date of this act:

(1) Examine the annual cost of implementing changes to eligibility and other requirements of the state's existing unemployment insurance system in order for the state to qualify for the maximum amount available under the federal American Recovery and Reinvestment Act of 2009 (P.L. 111-5).

(2) Compare the cost determined in subdivision (1) to the maximum amount available to the state under the federal

American Recovery and Reinvestment Act of 2009 (P.L. 111-5) as the result of the state making the changes.

(3) Initiate the changes examined under subdivisions (1) and (2), unless the commissioner determines, after the examination under subdivision (1) and the comparison performed under subdivision (2), that the negative fiscal impact to the fund outweighs the benefits of:

(A) the amounts available to the state under the federal American Recovery and Reinvestment Act of 2009 (P.L. 111-5); and

(B) the expansion of eligibility and other requirements of the state's existing unemployment insurance system.

(4) Submit in an electronic format under IC 5-14-6 to the legislative council, the committee, the speaker of the house of representatives, and the president pro tempore of the senate a report that provides the following:

(A) Details of the commissioner's actions, or the commissioner's decision not to initiate changes, under subdivisions (1), (2), and (3).

(B) Recommendations for any legislation necessary to modify the state's unemployment insurance system in order for the state to qualify for amounts available under the federal American Recovery and Reinvestment Act of 2009 (P.L. 111-5).

(C) An analysis of the fiscal impact to the fund of:

(i) the commissioner's actions, or the commissioner's decision not to initiate changes, under subdivision (3); and

(ii) any legislation recommended under clause (B), if the legislation is enacted.

(e) This SECTION expires July 1, 2011.

SECTION 50. **An emergency is declared for this act.**

Speaker of the House of Representatives

President of the Senate

President Pro Tempore

Governor of the State of Indiana

Date: _____ Time: _____

C o p y